



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXV  
April 3, 2013

NUMBER 20  
Pages 1513 to 1562

## CONTENTS IN THIS ISSUE

Pages 1523 to 1562 include ARC 0658C to ARC 0683C

### AGENDA

Administrative rules review committee . . . . . 1517

### ALL AGENCIES

Agency identification numbers . . . . . 1521  
Citation of administrative rules . . . . . 1515  
Schedule for rule making . . . . . 1516

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Notice, Initiation of ethics complaint  
by executive director; standards of  
professional conduct and ethics,  
11.4(1), 25.3 ARC 0677C . . . . . 1523  
Notice, License expiration at end of  
holder's birth month, 13.9(2), 22.1(3),  
22.2(1), 23.2 ARC 0676C . . . . . 1524  
Notice, Prohibited relationships between  
licensees and former students, 25.3(1)  
ARC 0678C . . . . . 1525

### HUMAN SERVICES DEPARTMENT[441]

Notice, Appeals and hearings, 7.1, 7.5(5),  
7.7(4), 7.8 ARC 0671C . . . . . 1526  
Notice, Medicaid for employed  
people with disabilities—premiums,  
75.1(39)"b" ARC 0668C . . . . . 1528  
Notice, Integrated health home services  
for members with serious mental illness  
or emotional disturbance, 77.47(1),  
78.53(2), 79.1(2) ARC 0667C . . . . . 1529  
Notice, Electronic health record incentive  
program, 79.16 ARC 0669C . . . . . 1532  
Notice, Child care assistance sliding fee  
schedule, 170.4(2)"a" ARC 0670C . . . . . 1534

Filed, HCBS waiver services—  
reimbursement, amendments to chs 79,  
83 ARC 0665C . . . . . 1549  
Filed, Child development homes—use of  
mobile telephone as primary telephone,  
110.5(1)"a" ARC 0666C . . . . . 1549

### INSPECTIONS AND APPEALS

#### DEPARTMENT[481]

Notice, Tuberculosis screening of health  
care workers and volunteers, 59.2  
ARC 0675C . . . . . 1536  
Filed, Screening and testing for  
tuberculosis, amendments to chs 57,  
58, 62, 63, 65 ARC 0663C . . . . . 1550  
Filed Emergency, Tuberculosis screening  
of health care workers and volunteers,  
59.2 ARC 0674C . . . . . 1548

#### IOWA FINANCE AUTHORITY[265]

Notice, Title plant certification, 9.7(10)  
ARC 0682C . . . . . 1537  
Notice, Military service member home  
ownership assistance program—home  
purchase financing, 27.3(2) ARC 0683C . . . . . 1538

#### IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Filed, Contribution rates; coverage;  
administration, 4.6, 5.2(33), 11.5(2),  
12.5, 12.6, 13.2, 15.2, 16.2 ARC 0662C . . . . . 1552

**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Notice, Extension of time to practice  
under former home state license, 16.2  
**ARC 0673C** ..... 1539

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Notice, Licensure and discipline for  
marital and family therapists and  
mental health counselors, amendments  
to chs 31, 33 **ARC 0679C** ..... 1539

- Notice, Licensure of optometrists, 180.1,  
180.2(2), 180.3, 181.3(2)"c," 182.4  
**ARC 0680C** ..... 1542

- Notice, Respiratory therapists—  
concurrent or unsupervised therapy,  
direct supervision, 265.3 **ARC 0681C** ..... 1543

**PUBLIC HEALTH DEPARTMENT[641]**

- Notice, Exemption from duplicate  
reporting of laboratory results, 1.4(1)  
**ARC 0672C** ..... 1544

- Filed, Center for congenital and inherited  
disorders, 4.1 to 4.5, 4.7, 4.11 to 4.14  
**ARC 0664C** ..... 1556

**PUBLIC HEARINGS**

- Summarized list ..... 1519

**REVENUE DEPARTMENT[701]**

- Amended Notice, Valuation of  
agricultural real estate, 71.3(1)  
**ARC 0659C** ..... 1545

**TRANSPORTATION DEPARTMENT[761]**

- Notice, Firefighter and EMS plates;  
definition and inspection of principal  
place of business, 401.9(4), 401.10(3),  
425.3, 425.12(1) **ARC 0658C** ..... 1545

- Filed, Fitness to drive determinations  
by qualified medical professionals,  
4.9(25), 600.1, 600.4(4), 605.5(5)"b"  
**ARC 0661C** ..... 1557

- Filed, Federal motor carrier safety  
and hazardous materials regulations,  
520.1(1) **ARC 0660C** ..... 1559

**USURY**

- Notice ..... 1546

## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

### CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2013

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 19 '12*</b>	Jan. 9 '13	Jan. 29 '13	Feb. 13 '13	Feb. 15 '13	Mar. 6 '13	Apr. 10 '13	July 8 '13
Jan. 4	Jan. 23	Feb. 12	Feb. 27	Mar. 1	Mar. 20	Apr. 24	July 22
Jan. 18	Feb. 6	Feb. 26	Mar. 13	Mar. 15	Apr. 3	May 8	Aug. 5
Feb. 1	Feb. 20	Mar. 12	Mar. 27	Mar. 29	Apr. 17	May 22	Aug. 19
Feb. 15	Mar. 6	Mar. 26	Apr. 10	Apr. 12	May 1	June 5	Sep. 2
Mar. 1	Mar. 20	Apr. 9	Apr. 24	Apr. 26	May 15	June 19	Sep. 16
Mar. 15	Apr. 3	Apr. 23	May 8	May 10	May 29	July 3	Sep. 30
Mar. 29	Apr. 17	May 7	May 22	<b>***May 22***</b>	June 12	July 17	Oct. 14
Apr. 12	May 1	May 21	June 5	June 7	June 26	July 31	Oct. 28
Apr. 26	May 15	June 4	June 19	<b>***June 19***</b>	July 10	Aug. 14	Nov. 11
May 10	May 29	June 18	July 3	July 5	July 24	Aug. 28	Nov. 25
<b>***May 22***</b>	June 12	July 2	July 17	July 19	Aug. 7	Sep. 11	Dec. 9
June 7	June 26	July 16	July 31	Aug. 2	Aug. 21	Sep. 25	Dec. 23
<b>***June 19***</b>	July 10	July 30	Aug. 14	Aug. 16	Sep. 4	Oct. 9	Jan. 6 '14
July 5	July 24	Aug. 13	Aug. 28	<b>***Aug. 28***</b>	Sep. 18	Oct. 23	Jan. 20 '14
July 19	Aug. 7	Aug. 27	Sep. 11	Sep. 13	Oct. 2	Nov. 6	Feb. 3 '14
Aug. 2	Aug. 21	Sep. 10	Sep. 25	Sep. 27	Oct. 16	Nov. 20	Feb. 17 '14
Aug. 16	Sep. 4	Sep. 24	Oct. 9	Oct. 11	Oct. 30	Dec. 4	Mar. 3 '14
<b>***Aug. 28***</b>	Sep. 18	Oct. 8	Oct. 23	<b>***Oct. 23***</b>	Nov. 13	Dec. 18	Mar. 17 '14
Sep. 13	Oct. 2	Oct. 22	Nov. 6	<b>***Nov. 6***</b>	Nov. 27	Jan. 1 '14	Mar. 31 '14
Sep. 27	Oct. 16	Nov. 5	Nov. 20	<b>***Nov. 20***</b>	Dec. 11	Jan. 15 '14	Apr. 14 '14
Oct. 11	Oct. 30	Nov. 19	Dec. 4	<b>***Dec. 4***</b>	Dec. 25	Jan. 29 '14	Apr. 28 '14
<b>***Oct. 23***</b>	Nov. 13	Dec. 3	Dec. 18	<b>***Dec. 18***</b>	Jan. 8 '14	Feb. 12 '14	May 12 '14
<b>***Nov. 6***</b>	Nov. 27	Dec. 17	Jan. 1 '14	Jan. 3 '14	Jan. 22 '14	Feb. 26 '14	May 26 '14
<b>***Nov. 20***</b>	Dec. 11	Dec. 31	Jan. 15 '14	Jan. 17 '14	Feb. 5 '14	Mar. 12 '14	June 9 '14
<b>***Dec. 4***</b>	Dec. 25	Jan. 14 '14	Jan. 29 '14	Jan. 31 '14	Feb. 19 '14	Mar. 26 '14	June 23 '14
<b>***Dec. 18***</b>	Jan. 8 '14	Jan. 28 '14	Feb. 12 '14	Feb. 14 '14	Mar. 5 '14	Apr. 9 '14	July 7 '14

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 12, 2013	May 1, 2013
23	Friday, April 26, 2013	May 15, 2013
24	Friday, May 10, 2013	May 29, 2013

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, April 12, 2013, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the March 20, 2013, Iowa Administrative Bulletin.

### **EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

Initiation of ethics complaint by executive director; standards of professional conduct and ethics, 11.4(1), 25.3 Notice **ARC 0677C** ..... 4/3/13  
 License expiration at end of holder's birth month, 13.9(2), 22.1(3), 22.2(1), 23.2 Notice **ARC 0676C**..... 4/3/13  
 Prohibited relationships between licensees and former students, 25.3(1) Notice **ARC 0678C**..... 4/3/13

### **HUMAN SERVICES DEPARTMENT[441]**

Appeals and hearings, 7.1, 7.5(5), 7.7(4), 7.8 Notice **ARC 0671C**..... 4/3/13  
 Medicaid for employed people with disabilities—premiums, 75.1(39)"b" Notice **ARC 0668C** ..... 4/3/13  
 Integrated health home services for members with serious mental illness or emotional disturbance, 77.47(1), 78.53(2), 79.1(2) Notice **ARC 0667C**..... 4/3/13  
 HCBS waiver services—reimbursement, amendments to chs 79, 83 Filed **ARC 0665C**..... 4/3/13  
 Electronic health record incentive program, 79.16 Notice **ARC 0669C**..... 4/3/13  
 Child development homes—use of mobile telephone as primary telephone, 110.5(1)"a"  
Filed **ARC 0666C**..... 4/3/13  
 Child care assistance sliding fee schedule, 170.4(2)"a" Notice **ARC 0670C**..... 4/3/13

### **INSPECTIONS AND APPEALS DEPARTMENT[481]**

Screening and testing for tuberculosis, amendments to chs 57, 58, 62, 63, 65 Filed **ARC 0663C**..... 4/3/13  
 Tuberculosis screening of health care workers and volunteers, 59.2  
Notice **ARC 0675C**, also Filed Emergency **ARC 0674C** ..... 4/3/13

### **IOWA FINANCE AUTHORITY[265]**

Title plant certification, 9.7(10) Notice **ARC 0682C**..... 4/3/13  
 Military service member home ownership assistance program—home purchase financing,  
 27.3(2) Notice **ARC 0683C**..... 4/3/13

### **IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

Contribution rates; coverage; administration, 4.6, 5.2(33), 11.5(2), 12.5, 12.6, 13.2, 15.2,  
 16.2 Filed **ARC 0662C**..... 4/3/13

### **NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Extension of time to practice under former home state license, 16.2 Notice **ARC 0673C** ..... 4/3/13

### **PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure and discipline for marital and family therapists and mental health counselors,  
 amendments to chs 31, 33 Notice **ARC 0679C**..... 4/3/13  
 Licensure of optometrists, 180.1, 180.2(2), 180.3, 181.3(2)"c," 182.4 Notice **ARC 0680C**..... 4/3/13  
 Respiratory therapists—concurrent or unsupervised therapy, direct supervision, 265.3  
Notice **ARC 0681C** ..... 4/3/13

### **PUBLIC HEALTH DEPARTMENT[641]**

Exemption from duplicate reporting of laboratory results, 1.4(1) Notice **ARC 0672C** ..... 4/3/13  
 Center for congenital and inherited disorders, 4.1 to 4.5, 4.7, 4.11 to 4.14 Filed **ARC 0664C**..... 4/3/13

### **REVENUE DEPARTMENT[701]**

Valuation of agricultural real estate, 71.3(1) Amended Notice **ARC 0659C** ..... 4/3/13

### **TRANSPORTATION DEPARTMENT[761]**

Fitness to drive determinations by qualified medical professionals, 4.9(25), 600.1, 600.4(4),  
 605.5(5)"b" Filed **ARC 0661C** ..... 4/3/13  
 Firefighter and EMS plates; definition and inspection of principal place of business, 401.9(4),  
 401.10(3), 425.3, 425.12(1) Notice **ARC 0658C** ..... 4/3/13  
 Federal motor carrier safety and hazardous materials regulations, 520.1(1) Filed **ARC 0660C**..... 4/3/13

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Mark Chelgren  
819 Hutchinson  
Ottumwa, Iowa 52501

Senator Thomas Courtney  
2609 Clearview  
Burlington, Iowa 52601

Senator Wally Horn  
101 Stoney Point Road, SW  
Cedar Rapids, Iowa 52404

Senator Pam Jochum  
2368 Jackson Street  
Dubuque, Iowa 52001

Senator Roby Smith  
2036 East 48th Street  
Davenport, Iowa 52807

Joseph A. Royce  
**Legal Counsel**  
Capitol  
Des Moines, Iowa 50319  
Telephone (515)281-3084  
Fax (515)281-8451

Representative Dave J. Jacoby  
2308 Northridge Drive  
Coralville, Iowa 52241

Representative Rick Olson  
3012 East 31st Court  
Des Moines, Iowa 50317

Representative Dawn Pettengill  
P.O. Box A  
Mt. Auburn, Iowa 52313

Representative Jeff Smith  
1006 Brooks North Lane  
Okoboji, Iowa 51355

Representative Guy Vander Linden  
1610 Carbonado Road  
Oskaloosa, Iowa 52577

Brenna Findley  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 18  
Des Moines, Iowa 50319  
Telephone (515)281-5211

**EDUCATIONAL EXAMINERS BOARD[282]**

Initiation of ethics complaint by executive director; standards of professional conduct and ethics, 11.4(1), 25.3 IAB 4/3/13 <b>ARC 0677C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 24, 2013 1 p.m.
License expiration at end of holder's birth month, 13.9(2), 22.1(3), 22.2(1), 23.2 IAB 4/3/13 <b>ARC 0676C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 24, 2013 1 p.m.
Prohibited relationships between licensees and former students, 25.3(1) IAB 4/3/13 <b>ARC 0678C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 24, 2013 1 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Air quality—plantwide applicability limitations (PALs), 33.3(1), 33.9 IAB 3/20/13 <b>ARC 0648C</b>	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	April 23, 2013 1 p.m.
---	---	--------------------------

**IOWA PUBLIC INFORMATION BOARD[497]**

Organization and administration; complaint investigation and resolution; agency procedures, chs 1 to 7 IAB 3/20/13 <b>ARC 0644C</b>	Room G-9 State Capitol Des Moines, Iowa	April 9, 2013 10 to 11 a.m.
--	---	--------------------------------

**LABOR SERVICES DIVISION[875]**

Boiler and pressure vessel program—"institution of health and custodial care" defined, 90.2 IAB 3/20/13 <b>ARC 0647C</b>	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	April 10, 2013 9 a.m. (If requested)
---	---	--

**PROFESSIONAL LICENSURE DIVISION[645]**

Licensure and discipline for marital and family therapists and mental health counselors, amendments to chs 31, 33 IAB 4/3/13 <b>ARC 0679C</b>	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 23, 2013 8 to 8:30 a.m.
Nursing home administrators—provisional licensure, 141.1, 141.5(1)"e," 141.6, 144.1 IAB 3/20/13 <b>ARC 0651C</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 9, 2013 10 to 11 a.m.
Licensure of optometrists, 180.1, 180.2(2), 180.3, 182.4 IAB 4/3/13 <b>ARC 0680C</b>	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 23, 2013 8:30 to 9 a.m.
Respiratory therapists—concurrent or unsupervised therapy, direct supervision, 261.1, 265.3 IAB 4/3/13 <b>ARC 0681C</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 24, 2013 9 to 9:30 a.m.

**REVENUE DEPARTMENT[701]**

Valuation of agricultural real estate,  
71.3(1)  
IAB 4/3/13 **ARC 0659C**  
(See also **ARC 0653C**, IAB 3/20/13)

Room 430, Fourth Floor  
Hoover State Office Bldg.  
Des Moines, Iowa

April 26, 2013  
9 to 10 a.m.

**SOIL CONSERVATION DIVISION[27]**

Soil conservation and water  
protection practices—funding,  
amendments to chs 10, 12  
IAB 3/20/13 **ARC 0655C**

Second Floor Conference Room  
Wallace State Office Bldg.  
Des Moines, Iowa

April 9, 2013  
1:30 p.m.

**TRANSPORTATION DEPARTMENT[761]**

Firefighter and EMS plates;  
definition and inspection of  
principal place of business,  
401.9(4), 401.10(3), 425.3,  
425.12(1)  
IAB 4/3/13 **ARC 0658C**

Motor Vehicle Division Offices  
6310 SE Convenience Blvd.  
Ankeny, Iowa

April 25, 2013  
10 a.m.  
(If requested)

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Agricultural Development Authority[25]  
    Soil Conservation Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF INDUSTRY COUNCIL, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CITIZENS’ AIDE[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Savings and Loan Division[197]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
EARLY CHILDHOOD IOWA STATE BOARD[249]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
EMPOWERMENT BOARD, IOWA[349]  
ENERGY INDEPENDENCE, OFFICE OF[350]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
    Community Action Agencies Division[427]  
    Criminal and Juvenile Justice Planning Division[428]  
    Deaf Services Division[429]  
    Persons With Disabilities Division[431]

Latino Affairs Division[433]  
Status of African-Americans, Division on the[434]  
Status of Women Division[435]  
Status of Iowans of Asian and Pacific Islander Heritage[436]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
Employment Appeal Board[486]  
Foster Care Review Board[489]  
Racing and Gaming Commission[491]  
State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
Appeal Board, State[543]  
City Finance Committee[545]  
County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
Energy and Geological Resources Division[565]  
Environmental Protection Commission[567]  
Natural Resource Commission[571]  
Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
Homeland Security and Emergency Management Division[605]  
Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
Professional Licensure Division[645]  
Dental Board[650]  
Medicine Board[653]  
Nursing Board[655]  
Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
Labor Services Division[875]  
Workers' Compensation Division[876]  
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 0677C

**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” and Chapter 25, “Code of Professional Conduct and Ethics,” Iowa Administrative Code.

The first proposed amendment would allow the Executive Director of the Board of Educational Examiners to file an ethics complaint when a licensee fails to comply with a Board order. The second proposed amendment would add “creed” to the list of bases on which a licensee may not discriminate. The purpose of this addition is to mirror the list of protected classes found in Iowa Code section 216.9, the section of the Iowa Civil Rights Act concerning education. The second proposed amendment would also add failure to comply with a Board order as a basis for licensee discipline. This change would address situations in which a licensee receives a deferred suspension but fails to satisfy the required conditions. The amendment would create an independent basis for discipline, so failure to comply with a Board order could lead to an ethics complaint and a contested case proceeding.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 24, 2013, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 26, 2013. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Amend subrule 11.4(1) as follows:

**11.4(1) Who may initiate.** The following entities may initiate a complaint:

a. to c. No change.

d. The executive director of the board of educational examiners if the following circumstances have been met:

(1) The executive director receives information that a practitioner:

1. to 6. No change.

7. Has assigned another practitioner to perform services for which the practitioner is not properly licensed; ~~and~~ or

8. Has failed to comply with a board order as prohibited by 282—paragraph 25.3(7)“d”; and

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) The executive director verifies the information or the alleged misconduct through review of official records maintained by the board, a court, the department of human services registry of founded child abuse reports, the practitioner licensing authority of another state, the department of education, the local school district, area education agency, or authorities in charge of the nonpublic school, or the executive director is presented with the falsified license; and

(3) No other complaint has been filed.

*e.* and *f.* No change.

ITEM 2. Amend subrules 25.3(6) and 25.3(7) as follows:

**25.3(6)** *Standard VI—unethical practice toward other members of the profession, parents, students, and the community.* Violation of this standard includes:

*a.* to *d.* No change.

*e.* Engaging in any act of illegal discrimination, or otherwise denying a student or practitioner participation in the benefits of any program on the grounds of race, creed, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.

*f.* to *r.* No change.

**25.3(7)** *Standard VII—compliance with state law governing obligations to state or local governments, student loan obligations, ~~and~~ child support obligations, and board orders.* Violation of this standard includes:

*a.* to *c.* No change.

*d.* Failing to comply with a board order.

**ARC 0676C**

## EDUCATIONAL EXAMINERS BOARD[282]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 22, “Authorizations,” and Chapter 23, “Behind-the-Wheel Driving Instructor Authorization,” Iowa Administrative Code.

These amendments are proposed to authorize the affected licenses to expire at the end of the holder’s birth month, which aligns with teaching licenses that expire at the end of the birth month. These amendments also clarify the type of credits that are acceptable for renewal of the substitute authorization.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 24, 2013, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 26, 2013. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code section 272.7.

The following amendments are proposed.

ITEM 1. Amend subrule 13.9(2) as follows:

**13.9(2) Term.** The term of the teacher intern license will be one school year ~~from the date of issuance~~. This license is nonrenewable. The fee for the teacher intern license is in 282—Chapter 12.

ITEM 2. Amend subrule 22.1(3) as follows:

**22.1(3) Validity.** The coaching authorization shall be valid for five years, ~~and it shall expire five years from the date of issuance~~.

ITEM 3. Amend paragraph **22.2(1)“b”** as follows:

*b. Validity.* The substitute authorization shall be valid for three years, ~~and it shall expire three years from the date of issuance~~.

ITEM 4. Amend subparagraph **22.2(1)“c”(1)** as follows:

(1) Renewal units. Applicants for renewal of the substitute authorization must provide verification of a minimum of two semester hours of renewal units equivalent to 30 clock hours credits.

ITEM 5. Amend rule 282—23.2(272,321) as follows:

**282—23.2(272,321) Validity.** ~~All fees are nonrefundable as set out in 282—Chapter 12. The behind-the-wheel driving instructor authorization shall be valid for one calendar year, and it shall expire one year after issue date. The behind-the-wheel driving instructor authorization shall be valid only if the holder continues to be qualified under 282—subrule 23.1(1).~~

**ARC 0678C**

## EDUCATIONAL EXAMINERS BOARD[282]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 25, “Code of Professional Conduct and Ethics,” Iowa Administrative Code.

The proposed amendment would prohibit romantic or sexual relationships between licensees and former students for 180 days following the student’s graduation, if the licensee and the student had a direct or supervisory relationship prior to the student’s graduation. The proposed amendment adds an additional ethics violation under paragraph 25.3(1)“e” (“Student abuse”) specifically for students no longer enrolled in a school district.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 24, 2013, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, April 26, 2013. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Amend subrule 25.3(1) as follows:

**25.3(1) Standard I—conviction of crimes, sexual or other immoral conduct with or toward a student, and child and dependent adult abuse.** Violation of this standard includes:

a. to d. No change.

e. *Student abuse.* Licensees shall maintain professional relationships with all students, both inside and outside the classroom. The following acts or behavior constitutes unethical conduct without regard to the existence of a criminal charge or conviction:

(1) to (4) No change.

(5) Furnishing alcohol or illegal or unauthorized drugs or drug paraphernalia to any student or knowingly allowing a student to consume alcohol or illegal or unauthorized drugs in the presence of the licensee; or

(6) Failing to report any suspected act of child or dependent adult abuse as required by state law; or

(7) Committing or soliciting any sexual or otherwise indecent act or soliciting, encouraging, or consummating a romantic relationship with any person who was a student within 180 days prior to any conduct alleged in the complaint, if that person was personally acquainted with the licensee, was taught by the licensee, or was supervised by the licensee in any school activity when that person was a student.

**ARC 0671C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to amend Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

These amendments provide clarification on terminology for actions taken by participating organizations and individuals within the appeals process. Specifically, a prehearing conference can currently be held informally with the local office and the appellant or more formally with an administrative law judge. When changes were made to the rules in Chapter 7 effective February 1, 2013, all references to the informal version with the local office were inadvertently removed. The February 1, 2013, changes made a prehearing conference more specific to a child abuse or Medicaid provider appeal that is held with an administrative law judge with the Iowa Department of Inspections and Appeals. However, local Department offices can also hold a prehearing conference with an appellant before an appeal hearing is held.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

To clarify this concept, the informal version of the conference will now be known as an informal conference. Definitions have been added for both “informal conference” and “prehearing conference” so that the two types of conferences are differentiated. Also, these amendments revise rules to include the information that was inadvertently removed.

These amendments also clarify the date the appeal will be considered received if submitted by an electronic delivery method. As the volume of documents that are submitted electronically continues to grow, it is best to document within the rules how the date received is determined.

Any interested person may make written comments on the proposed amendments on or before April 23, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 217.6.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **441—7.1(17A)**:

“*Informal conference*” means a type of meeting between the appellant and the appellant’s representative, unless precluded by federal law or state statute, and a representative of the department. The purpose of the informal conference is to provide information as to the reasons for the intended adverse action, to answer questions, to explain the basis for the adverse action, to provide an opportunity for the appellant to explain the appellant’s action or position, and to provide an opportunity for the appellant to examine the contents of the case record including all documents and records to be used by the department at the hearing in accordance with 441—Chapter 9.

“*Prehearing conference*” means a type of meeting between the appellant and the appellant’s representative, unless precluded by federal law or state statute, a representative of the department and a presiding officer. The purpose of the prehearing conference is to discuss the appealed issue, to inquire as to the potential for voluntary settlement, to establish the hearing date, to establish the location of the hearing including whether the hearing will be by telephone or in person, and to discuss procedural matters relevant to the case.

ITEM 2. Amend subrule 7.5(5) as follows:

**7.5(5) Informal settlements.** The time limit for submitting an appeal is not extended while attempts at informal settlement are in progress. ~~Prehearing conferences are provided for at subrules 7.7(4) and 7.8(4).~~

ITEM 3. Rescind and reserve subrule **7.7(4)**.

ITEM 4. Amend subrule 7.8(2) as follows:

**7.8(2) Filing the appeal.** The appellant shall be encouraged, but not required, to make written appeal on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, and the worker shall provide any instructions or assistance required in completing the form. When the appellant is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to perfect the appeal, as long as the appeal is in writing (except for food assistance appeals) and has been communicated to the department by the appellant or appellant’s representative.

A written appeal is filed on the date postmarked on the envelope sent to the department, or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency. When an appeal is submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile, the appeal is filed on the date it is submitted. The electronic delivery method shall record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals shall be documented by the office where the appeal is received.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Adopt the following **new** subrule 7.8(3):

**7.8(3) Informal conference.** When requested by the appellant, an informal conference with a representative of the department shall be held as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the informal conference, unless precluded by federal rule or state statute.

An informal conference need not be requested for the appellant to have access to the records as provided in subrule 7.13(1) and 441—Chapter 9.

ITEM 6. Amend subrule 7.8(4) as follows:

**7.8(4) Prehearing conference.** When requested by the appellant or department, a prehearing conference ~~with a representative of the local office or the office which took the action appealed~~ shall be held with the appellant, a representative of the department and a presiding officer as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the prehearing conference, unless precluded by federal rule or state statute.

~~The purpose of the prehearing conference is to discuss the appealed issue, to inquire as to voluntary settlement potential, to establish the hearing date, to establish the location of the hearing including whether the hearing will be by telephone or in person, and to discuss procedural matters relevant to the case.~~

ITEM 7. Amend subrule 7.8(5) as follows:

**7.8(5) Interference.** ~~The~~ Neither an informal conference nor a prehearing conference shall ~~not~~ be used to discourage appellants from proceeding with their appeals. The right of appeal shall not be limited or interfered with in any way, even though the person's complaint may be without basis in fact, or because of the person's own misinterpretation of law, agency policy, or methods of implementing policy.

**ARC 0668C**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

This amendment decreases premiums for applicants and recipients under the Medicaid for Employed People with Disabilities (MEPD) program with income over 150 percent of the federal poverty level (FPL).

The Department is requesting these changes because Iowa Code section 249A.3(2)“a”(1) requires that “[t]he maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees’ group health insurance in this state.” The average cost to the state for state employees’ health insurance for a single person is \$598 effective January 1, 2013. Therefore, the maximum premium must be set at that amount.

Any interested person may make written comments on the proposed amendment on or before April 23, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does not provide for waivers in specific situations because all members should be subject to the same sliding scale for MEPD premiums. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment is intended to implement Iowa Code section 249A.4.  
The following amendment is proposed.

Amend subparagraph **75.1(39)“b”(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$34 <u>29</u>
165% of Federal Poverty Level	\$46 <u>39</u>
180% of Federal Poverty Level	\$56 <u>44</u>
200% of Federal Poverty Level	\$66 <u>51</u>
225% of Federal Poverty Level	\$78 <u>56</u>
250% of Federal Poverty Level	\$88 <u>66</u>
300% of Federal Poverty Level	\$108 <u>86</u>
350% of Federal Poverty Level	\$130 <u>106</u>
400% of Federal Poverty Level	\$152 <u>124</u>
450% of Federal Poverty Level	\$174 <u>144</u>
550% of Federal Poverty Level	\$215 <u>182</u>
650% of Federal Poverty Level	\$257 <u>221</u>
750% of Federal Poverty Level	\$300 <u>262</u>
850% of Federal Poverty Level	\$344 <u>305</u>
1000% of Federal Poverty Level	\$409 <u>369</u>
1150% of Federal Poverty Level	\$481 <u>440</u>
1300% of Federal Poverty Level	\$574 <u>515</u>
1480% of Federal Poverty Level	\$667 <u>598</u>

**ARC 0667C**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments implement the integrated health home (IHH) for members with a serious mental illness (SMI) or a serious emotional disturbance (SED), as defined in the state plan. This is phase 2 of a planned implementation meeting federal guidelines for this program. These amendments add the information required to define eligibility, modify the payment matrix to ensure accuracy, and ensure that health home providers collaborate with case managers or social workers for individuals with chronic conditions. These amendments ensure that individuals with SMI or SED will have all care coordinated within their integrated health home provider and that children with SED are served by integrated health home providers trained in a system of care model.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments will improve the health of the Medicaid members with SMI or SED, with a focus on integrating mental, behavioral, and physical health; improving transitions of care; and lowering avoidable emergency room visits and hospital readmissions. In addition, these amendments will increase reimbursement to Medicaid providers that enhance their services to meet Department standards. Finally, the Department will be better able to serve these populations while achieving short-term budget savings with overall long-term budget neutrality.

Any interested person may make written comments on the proposed amendments on or before April 23, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because health home services are optional and confer a benefit on eligible individuals who elect to receive them. Waivers of particular provisions may be requested under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 77.47(1) as follows:

**77.47(1) *Qualifications.*** A designated provider of health home services must be a Medicaid-enrolled entity or provider that is determined through the provider enrollment process to have the systems and infrastructure in place to provide health home services.

*a. and b.* No change.

*c. Collaboration with case managers.* Health homes providing services to members eligible pursuant to 441—subparagraph 78.53(2)“a”(1) or (2) must collaborate, at least quarterly, with targeted case managers, other case managers, or DHS service workers for each member receiving case management services. Strategies to prevent duplication of coordination efforts by the health home and case managers or service workers must be developed by the health home and documented upon request. Documentation may include but is not limited to records of joint staffing meetings where a member's medical needs, current activities, and waiver services needs are reviewed and appropriately updated.

*d. Provision of integrated health home services.* Health homes providing services to members eligible pursuant to 441—subparagraph 78.53(2)“a”(3) or (4) must be integrated health homes that:

(1) Consist of a team of health care professionals trained in providing health home services to members with a serious mental illness (SMI) and to members with a serious emotional disturbance (SED);

(2) Have a direct agreement with the Iowa Medicaid managed behavioral health organization to provide health home services for members with SMI or SED;

(3) Coordinate all community and social support services needs for members enrolled in the health home; and

(4) Follow a system of care model in providing health home services to members with SED, including collaboration with the child welfare, public health, juvenile justice, and education systems.

ITEM 2. Amend subrule 78.53(2) as follows:

**78.53(2) *Members eligible for health home services.***

*a.* Subject to the authority of the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. §1396w-4(h)(1)(B) to establish higher levels for the number or severity of chronic or mental health conditions for purposes of determining eligibility for receipt of health home services, payment shall be made only for health home services provided to a Medicaid member who:

(1) ~~has~~ Has at least two chronic conditions ~~or~~;

(2) ~~has~~ Has one chronic condition and is at risk of having a second chronic condition;

(3) Has a serious mental illness; or

(4) Has a serious emotional disturbance.

*b.* For purposes of this rule, the term “chronic condition” means:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- ~~a.~~ (1) A mental health disorder.
- ~~b.~~ (2) A substance use disorder.
- ~~c.~~ (3) Asthma.
- ~~d.~~ (4) Diabetes.
- ~~e.~~ (5) Heart disease.
- ~~f.~~ (6) Being overweight, as evidenced by:
- (1) Having a body mass index (BMI) over 25 for an adult, or
- (2) Weighing over the 85th percentile for the pediatric population.
- ~~g.~~ (7) Hypertension.
- c. For purposes of this rule, the term “serious mental illness” means:
- (1) A psychotic disorder;
- (2) Schizophrenia;
- (3) Schizoaffective disorder;
- (4) Major depression;
- (5) Bipolar disorder;
- (6) Delusional disorder; or
- (7) Obsessive-compulsive disorder.

d. For purposes of this rule, the term “serious emotional disturbance” means a diagnosable mental, behavioral, or emotional disorder (not including substance use disorders, learning disorders, or intellectual disorders) that is of sufficient duration to meet diagnostic criteria specified in the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and that results in a functional impairment. For this purpose, the term “functional impairment” means episodic, recurrent, or continuous difficulties that substantially interfere with or limit a person from achieving or maintaining one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills and that substantially interfere with or limit the person’s role or functioning in family, school, or community activities, not including difficulties resulting from temporary and expected responses to stressful events in a person’s environment.

ITEM 3. Amend subrule 79.1(2), provider category “Health home services provider,” as follows:

Provider category	Basis of reimbursement	Upper limit
Health home services provider	Fee schedule based on the <u>member’s qualifying health condition(s)</u> . <del>number of member’s chronic conditions (not including conditions for which member is only at risk).</del> Submission of the per-member per-month (PMPM) claim from the provider confirms that health home services are being provided.	Monthly fee schedule amount.

ARC 0669C

**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The purpose of these amendments is to comply with current federal regulations and to provide for administrative simplification for both the Department and for Medicaid providers that wish to participate in this program. These amendments implement the following changes:

1. Set the previous hospital year as the base year for calculating the hospital incentive payment.
2. Permit an alternate option for children’s hospitals to participate, using a specially assigned number by the Centers for Medicare and Medicaid Services (CMS).
3. Clarify and update the application, agreement and payment processes, including that dually eligible hospitals will report to CMS.

Any interested person may make written comments on the proposed amendments on or before April 23, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because these rules are consistent for all eligible providers and hospitals in accordance with federal law. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 79.16(1) as follows:

**79.16(1) State elections.** In addition to the statutory provisions in ARRA Section 4201, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as published in the Federal Register, Vol. 75, No. 144, on July 28, 2010 as amended to September 4, 2012. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

*a.* For purposes of the term “hospital-based eligible professional (EP)” as set forth in 42 CFR Section 495.4 as amended to July 28, 2010 September 4, 2012, the department elects the calendar year preceding the payment year as the period used to calculate gather data to determine whether or not an eligible professional is “hospital-based” for purposes of the regulation.

*b.* For purposes of calculating patient volume as required by 42 CFR Section 495.306 as amended to July 28, 2010 September 4, 2012, the department has elected that eligible providers may elect to use either:

(1) The patient encounter methodology found in 42 CFR Section 495.306(c) as amended to July 28, 2010 September 4, 2012, or

(2) The patient panel methodology found in 42 CFR Section 495.306(d) as amended to July 28, 2010 September 4, 2012.

*c.* For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to July 28, 2010 September 4, 2012, the “12-month period selected by the state” shall mean the hospital fiscal year.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

d. For purposes of 42 CFR Section 495.310(g)(2)(i) as amended to ~~July 28, 2010~~ September 4, 2012, the “12-month period selected by the state” shall mean the hospital fiscal year.

ITEM 2. Amend paragraph **79.16(2)“b”** as follows:

b. The provider must be one of the following:

- (1) No change.
- (2) An acute care hospital, ~~defined as a health care facility where the average length of stay is 25 days or fewer, which has a CMS certification number with the last four digits in the series 0001-0879 or 1300-1399 as defined in 42 CFR Section 495.302 as amended to September 4, 2012.~~
- (3) A children’s hospital, ~~defined as a separately certified children’s hospital, either freestanding or a hospital-within-hospital, that predominately treats individuals under 21 years of age and has a CMS certification number with the last four digits in the series 3300-3399 as defined in 42 CFR Section 495.302 as amended to September 4, 2012.~~

ITEM 3. Amend subparagraph **79.16(2)“c”(2)** as follows:

(2) An eligible professional must have at least 30 percent of the professional’s patient volume ~~covered by~~ enrolled in Medicaid, except that:

1. A pediatrician must have at least 20 percent Medicaid patient volume. For purposes of this subrule, a “pediatrician” is a physician who is board-certified in pediatrics by the American Board of Pediatrics or the American Osteopathic Board of Pediatrics or who is eligible for board certification.
2. When a professional has at least 50 percent of patient encounters in a federally qualified health center or rural health clinic, patients who were furnished services either at no cost or at a reduced cost based on a sliding scale or ability to pay, patients covered by the HAWK-I program, and Medicaid members may be counted to meet the 30 percent threshold.

ITEM 4. Amend subrule 79.16(3) as follows:

**79.16(3) Application and agreement.** Any eligible provider ~~who wants~~ that intends to participate in the Iowa electronic health record incentive program must declare the intent to participate by registering with the ~~National Level Repository~~ CMS Registration and Attestation Web site, as developed by the Centers for Medicare and Medicaid Services (CMS). CMS will notify the department of an eligible provider’s application for the incentive payment.

a. Upon receipt of an application for participation in the program, the department will contact the applicant with instructions for accessing the Iowa EHR Medicaid incentive payment program section of the Iowa Medicaid portal access (IMPA) administration Web site at ~~https://secureapp.dhs.state.ia.us/imp/~~ www.imeincentives.com. The applicant shall use the Web site to:

- (1) Attest to the applicant’s qualifications to receive the incentive payment, and
- (2) Digitally sign Form 470-4976, Iowa Electronic Health Record Incentive Program Provider Agreement.

b. For the second year of participation, ~~the eligible provider~~ providers must submit meaningful use and clinical quality measures to the department, either through attestation or electronically as required by the department.

c. No change.

ITEM 5. Amend subrule 79.16(4) as follows:

**79.16(4) Payment.** The department shall issue the incentive payment only after confirming that all eligibility and performance criteria have been satisfied. Payments will be processed and paid to the tax identification number designated by the applicant. The department will communicate the payment or denial of payment to the ~~National Level Repository~~ CMS Registration and Attestation Web site.

a. The primary communication channel from the department to the provider will be the IMPA Iowa EHR Medicaid incentive payment administration Web site. If the department finds that the applicant is ineligible or has failed to achieve the criteria necessary for the payment, the department shall notify the provider through the Web site. Providers shall access the Web site to determine the status of their payment, including whether the department denied payment and the reason for the denial.

b. No change.

## ARC 0670C

## HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

The purpose of this amendment is to revise the child care assistance (CCA) fee chart based on new federal poverty levels (FPLs). This is an annual update that will allow families that have received raises to maintain eligibility for CCA without paying increased fees.

Any interested person may make written comments on the proposed amendment on or before April 23, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does not provide for waivers in specified situations because families may request a waiver of these provisions in a specified situation under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 237A.13.

The following amendment is proposed.

Amend paragraph 170.4(2)“a” as follows:

a. *Sliding fee schedule.*

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2012~~ 2013:

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
A	\$884	\$1,198	\$1,511	\$1,825	\$2,138	\$2,452	\$2,765	\$3,079	\$3,392	\$3,706	\$0.00	\$0.00	\$0.00
	\$910	\$1,228	\$1,547	\$1,865	\$2,183	\$2,501	\$2,820	\$3,138	\$3,456	\$3,774			
B	\$931	\$1,261	\$1,591	\$1,921	\$2,251	\$2,581	\$2,911	\$3,241	\$3,571	\$3,901	\$0.20	\$0.45	\$0.70
	\$958	\$1,293	\$1,628	\$1,963	\$2,298	\$2,633	\$2,968	\$3,303	\$3,638	\$3,973			
C	\$957	\$1,296	\$1,636	\$1,975	\$2,314	\$2,653	\$2,993	\$3,332	\$3,671	\$4,010	\$0.45	\$0.70	\$0.95
	\$985	\$1,329	\$1,674	\$2,018	\$2,362	\$2,707	\$3,051	\$3,395	\$3,740	\$4,084			
D	\$983	\$1,332	\$1,680	\$2,029	\$2,377	\$2,726	\$3,074	\$3,422	\$3,771	\$4,119	\$0.70	\$0.95	\$1.20
	\$1,012	\$1,365	\$1,719	\$2,073	\$2,427	\$2,780	\$3,134	\$3,488	\$3,842	\$4,195			
E	\$1,011	\$1,369	\$1,727	\$2,085	\$2,444	\$2,802	\$3,160	\$3,518	\$3,877	\$4,235	\$0.95	\$1.20	\$1.45
	\$1,040	\$1,404	\$1,767	\$2,131	\$2,495	\$2,858	\$3,222	\$3,586	\$3,949	\$4,313			
F	\$1,038	\$1,406	\$1,774	\$2,142	\$2,510	\$2,878	\$3,246	\$3,614	\$3,982	\$4,350	\$1.20	\$1.45	\$1.70
	\$1,068	\$1,442	\$1,815	\$2,189	\$2,563	\$2,936	\$3,310	\$3,683	\$4,057	\$4,430			
G	\$1,067	\$1,446	\$1,824	\$2,202	\$2,580	\$2,959	\$3,337	\$3,715	\$4,094	\$4,472	\$1.45	\$1.70	\$1.95
	\$1,098	\$1,482	\$1,866	\$2,250	\$2,634	\$3,018	\$3,402	\$3,786	\$4,170	\$4,554			
H	\$1,096	\$1,485	\$1,874	\$2,262	\$2,651	\$3,039	\$3,428	\$3,817	\$4,205	\$4,594	\$1.70	\$1.95	\$2.20
	\$1,128	\$1,523	\$1,917	\$2,312	\$2,706	\$3,101	\$3,495	\$3,890	\$4,284	\$4,679			
I	\$1,127	\$1,527	\$1,926	\$2,325	\$2,725	\$3,124	\$3,524	\$3,923	\$4,323	\$4,722	\$1.95	\$2.20	\$2.45
	\$1,160	\$1,565	\$1,971	\$2,376	\$2,782	\$3,187	\$3,593	\$3,998	\$4,404	\$4,810			

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
J	\$1,158	\$1,568	\$1,978	\$2,389	\$2,799	\$3,210	\$3,620	\$4,030	\$4,441	\$4,851	\$2.20	\$2.45	\$2.70
	\$1,191	\$1,608	\$2,024	\$2,441	\$2,858	\$3,274	\$3,691	\$4,107	\$4,524	\$4,941			
K	\$1,190	\$1,612	\$2,034	\$2,456	\$2,878	\$3,299	\$3,721	\$4,143	\$4,565	\$4,987	\$2.45	\$2.70	\$2.95
	\$1,225	\$1,653	\$2,081	\$2,509	\$2,938	\$3,366	\$3,794	\$4,222	\$4,651	\$5,079			
L	\$1,223	\$1,656	\$2,089	\$2,523	\$2,956	\$3,389	\$3,823	\$4,256	\$4,689	\$5,123	\$2.70	\$2.95	\$3.20
	\$1,258	\$1,698	\$2,138	\$2,578	\$3,018	\$3,458	\$3,897	\$4,337	\$4,777	\$5,217			
M	\$1,257	\$1,702	\$2,148	\$2,593	\$3,039	\$3,484	\$3,930	\$4,375	\$4,821	\$5,266	\$2.95	\$3.20	\$3.45
	\$1,293	\$1,745	\$2,198	\$2,650	\$3,102	\$3,554	\$4,007	\$4,459	\$4,911	\$5,363			
N	\$1,291	\$1,749	\$2,206	\$2,664	\$3,121	\$3,579	\$4,037	\$4,494	\$4,952	\$5,410	\$3.20	\$3.45	\$3.70
	\$1,328	\$1,793	\$2,258	\$2,722	\$3,187	\$3,651	\$4,116	\$4,580	\$5,045	\$5,509			
O	\$1,327	\$1,798	\$2,268	\$2,738	\$3,209	\$3,679	\$4,150	\$4,620	\$5,091	\$5,561	\$3.45	\$3.70	\$3.95
	\$1,366	\$1,843	\$2,321	\$2,798	\$3,276	\$3,753	\$4,231	\$4,709	\$5,186	\$5,664			
P	\$1,363	\$1,847	\$2,330	\$2,813	\$3,296	\$3,780	\$4,263	\$4,746	\$5,229	\$5,712	\$3.70	\$3.95	\$4.20
	\$1,403	\$1,893	\$2,384	\$2,875	\$3,365	\$3,856	\$4,346	\$4,837	\$5,327	\$5,818			
Q	\$1,401	\$1,898	\$2,395	\$2,892	\$3,389	\$3,885	\$4,382	\$4,879	\$5,376	\$5,872	\$3.95	\$4.20	\$4.45
	\$1,442	\$1,946	\$2,451	\$2,955	\$3,459	\$3,964	\$4,468	\$4,972	\$5,477	\$5,981			
R	\$1,440	\$1,950	\$2,460	\$2,971	\$3,481	\$3,991	\$4,501	\$5,012	\$5,522	\$6,032	\$4.20	\$4.45	\$4.70
	\$1,481	\$1,999	\$2,517	\$3,036	\$3,554	\$4,072	\$4,590	\$5,108	\$5,626	\$6,144			
S	\$1,480	\$2,005	\$2,529	\$3,054	\$3,578	\$4,103	\$4,628	\$5,152	\$5,677	\$6,201	\$4.45	\$4.70	\$4.95
	\$1,523	\$2,055	\$2,588	\$3,121	\$3,653	\$4,186	\$4,718	\$5,251	\$5,783	\$6,316			
T	\$1,520	\$2,059	\$2,598	\$3,137	\$3,676	\$4,215	\$4,754	\$5,292	\$5,831	\$6,370	\$4.70	\$4.95	\$5.20
	\$1,564	\$2,111	\$2,658	\$3,205	\$3,753	\$4,300	\$4,847	\$5,394	\$5,941	\$6,488			
U	\$1,563	\$2,117	\$2,671	\$3,225	\$3,779	\$4,333	\$4,887	\$5,441	\$5,995	\$6,549	\$4.95	\$5.20	\$5.45
	\$1,608	\$2,171	\$2,733	\$3,295	\$3,858	\$4,420	\$4,982	\$5,545	\$6,107	\$6,669			
V	\$1,605	\$2,174	\$2,744	\$3,313	\$3,882	\$4,451	\$5,020	\$5,589	\$6,158	\$6,727	\$5.20	\$5.45	\$5.70
	\$1,652	\$2,230	\$2,807	\$3,385	\$3,963	\$4,540	\$5,118	\$5,696	\$6,273	\$6,851			
W	\$1,650	\$2,235	\$2,820	\$3,405	\$3,990	\$4,575	\$5,160	\$5,745	\$6,330	\$6,915	\$5.45	\$5.70	\$5.95
	\$1,698	\$2,292	\$2,886	\$3,480	\$4,074	\$4,667	\$5,261	\$5,855	\$6,449	\$7,043			
X	\$1,695	\$2,296	\$2,897	\$3,498	\$4,099	\$4,700	\$5,301	\$5,902	\$6,503	\$7,104	\$5.70	\$5.95	\$6.20
	\$1,744	\$2,355	\$2,965	\$3,575	\$4,185	\$4,795	\$5,405	\$6,015	\$6,625	\$7,235			
Y	\$1,743	\$2,361	\$2,978	\$3,596	\$4,214	\$4,832	\$5,449	\$6,067	\$6,685	\$7,303	\$5.95	\$6.20	\$6.45
	\$1,793	\$2,420	\$3,048	\$3,675	\$4,302	\$4,929	\$5,556	\$6,183	\$6,810	\$7,437			
Z	\$1,790	\$2,425	\$3,059	\$3,694	\$4,329	\$4,963	\$5,598	\$6,232	\$6,867	\$7,501	\$6.20	\$6.45	\$6.70
	\$1,842	\$2,486	\$3,131	\$3,775	\$4,419	\$5,063	\$5,707	\$6,351	\$6,996	\$7,640			
AA	\$1,840	\$2,493	\$3,145	\$3,797	\$4,450	\$5,102	\$5,754	\$6,407	\$7,059	\$7,711	\$6.45	\$6.70	\$6.95
	\$1,894	\$2,556	\$3,218	\$3,880	\$4,543	\$5,205	\$5,867	\$6,529	\$7,192	\$7,854			
BB	\$1,891	\$2,561	\$3,231	\$3,901	\$4,571	\$5,241	\$5,911	\$6,581	\$7,251	\$7,921	\$6.70	\$6.95	\$7.20
	\$1,945	\$2,626	\$3,306	\$3,986	\$4,666	\$5,347	\$6,027	\$6,707	\$7,387	\$8,068			

(2) and (3) No change.

**ARC 0675C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 59, “Tuberculosis (TB) Screening,” Iowa Administrative Code.

The proposed amendment clarifies which health care workers are subject to the tuberculosis screening requirements outlined in 481—Chapter 59, as well as those individuals who are exempt from the screening requirements. The proposed amendment was developed in cooperation with the Iowa Department of Public Health and addresses concerns raised by the Iowa Health Care Association and LeadingAge Iowa regarding TB screening of volunteers who work in health care facilities.

Chapter 59 addresses TB screening for health care workers in hospitals licensed pursuant to Iowa Code chapter 135B and health care facilities licensed pursuant to Iowa Code chapter 135C. One association submitted a comment related to the definition of “health care worker” during the initial rule-making process to adopt Chapter 59 (see **ARC 0484C**, IAB 12/12/12). However, after careful consideration of all comments and discussion with the Department of Public Health, it was decided that no changes should be made to the Adopted and Filed rules. After publication of the Adopted and Filed rules, additional groups and individual providers expressed concerns specifically related to volunteers, prompting the need for this rule-making action, which is designed to address those concerns.

The Department does not believe the proposed amendment imposes any financial hardship on any regulated entity, body, or individual. Rather, the proposed amendment provides clarity and guidance on the screening of health care workers for tuberculosis and, in fact, reduces the number of individuals who might otherwise be subject to TB screening and testing.

The Board of Health reviewed the proposed amendment at its March 13, 2013, meeting.

Any interested persons may make written suggestions or comments on the proposed amendment on or before April 23, 2013. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 0674C**. The content of that submission is incorporated by reference.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 135C.14.

ARC 0682C

**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 9, “Title Guaranty Division,” Iowa Administrative Code.

The purpose of the proposed amendment is to allow the title guaranty director to approve an individual or organization to perform the inspection of the title plants seeking provisional waivers of the requirements of Iowa Code section 16.92(5) and to clarify the process of the inspection and certification of the title plant.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on April 23, 2013. Comments may be addressed to Carla Pope, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Carla Pope at (515)725-4921 or e-mailed to [carla.pope@iowa.gov](mailto:carla.pope@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendment based on comments received from the public.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 16.92(5)“b.”

The following amendment is proposed.

Amend subrule 9.7(10) as follows:

**9.7(10) Title plant certification.** For applicants granted a provisional waiver, an inspection of the title plant shall be performed by division staff or a designee of the title guaranty director. The inspection shall determine if the title plant meets the criteria set forth in paragraph 9.6(4)“a” and shall occur before the division staff shall inspect the title plant and certify to the division board that the title plant is complete before the board may grant grants up-to-date title plant status to the applicant. Upon If the applicant, following certification of up-to-date title plant status by the division board, proposes to conduct business under a name other than that of the entity to which the provisional waiver was granted, the applicant must obtain prior written approval to do so from the division to conduct business under a name other than the entity to which the provisional waiver was granted. Any transfer of a title plant must be approved by division staff in order for the title plant to be a title guaranty abstractor.

ARC 0683C

## IOWA FINANCE AUTHORITY[265]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 16.5(1)“b” and 16.54, the Iowa Finance Authority proposes to amend Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purpose of the proposed amendment is to simplify the requirements for using a non-IFA loan in conjunction with the assistance provided under the program and to rescind obsolete language.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on April 23, 2013. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4921 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendment based on comments received from the public.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 16.54.

The following amendment is proposed.

Amend subrule 27.3(2) as follows:

**27.3(2) *Financed home purchases.***

*a.* In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority’s home buyer mortgage programs if the service member qualifies for it, ~~unless lower APR, fixed-rate, fully amortizing mortgage financing is available or unless. If the service member does not qualify for one of the authority’s home buyer mortgage programs, another permanent, fully amortizing mortgage loan is available if the service member does not qualify for one of the authority’s home buyer mortgage programs may be used.~~

*b. to d.* No change.

~~*e.*—A service member who was otherwise eligible for the program and closed on a home on or after July 1, 2008, and prior to July 1, 2010, but who was ineligible for assistance under the program during that time due to the fact that the service member purchased a home with financing from a lender that was not a participating lender in the authority’s home buyer programs, may retroactively receive assistance under the program provided that:~~

~~(1) The mortgage loan used by the service member had a lower annual percentage rate than the mortgage loans being made through the authority’s home buyer programs at the time the service member closed on the service member’s mortgage loan;~~

~~(2) The service member and the service member’s lender provide all documentation as required by paragraphs “b” through “d,” above; and~~

~~(3) The financing lender becomes a facilitating lender pursuant to 27.3(7).~~

**ARC 0673C****NURSING BOARD[655]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 16, “Nurse Licensure Compact,” Iowa Administrative Code.

The proposed changes allow sufficient time to obtain documents and process requests to change the primary state of residence in a compact state. This change extends the time to practice using the licensee’s former state license from 30 to 90 days. This change conveys a benefit to the licensee.

Any interested person may make written comments or suggestions on or before April 23, 2013. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256 or in the Board office at 400 S.W. 8th Street, by appointment.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 152E.

The following amendments are proposed.

ITEM 1. Amend subrule 16.2(6) as follows:

**16.2(6)** A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse’s licensure application in the new home state for a period not to exceed 30 90 days.

ITEM 2. Amend subrule 16.2(7) as follows:

**16.2(7)** The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the ~~30~~ 90-day period set out in ~~16.2(2)~~ 16.2(6) of this rule shall be stayed until resolution of the pending investigation.

**ARC 0679C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Behavioral Science hereby gives Notice of Intended Action to amend Chapter 31, “Licensure of Marital and Family Therapists and Mental Health Counselors,” and Chapter 33, “Discipline for Marital and Family Therapists and Mental Health Counselors,” Iowa Administrative Code.

These proposed amendments clarify the amount of time a licensure application is active, update the supervised clinical experience requirements, remove outdated language for licensure by endorsement, and clarify that conviction of a crime includes when judgment of conviction or sentence was deferred.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any interested person may make written comments on the proposed amendments no later than April 23, 2013, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail [judith.manning@idph.iowa.gov](mailto:judith.manning@idph.iowa.gov).

A public hearing will be held April 23, 2013, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Proposed rules are subject to waiver as defined in 645—Chapter 18.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 147.3, 147.10, 147.55, 154D.2 and 154D.7.

The following amendments are proposed.

ITEM 1. Rescind subrule 31.2(10) and adopt the following **new** subrule in lieu thereof:

**31.2(10)** Submitting complete application materials. An application for a temporary or permanent license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

ITEM 2. Rescind subrule 31.5(1) and adopt the following **new** subrule in lieu thereof:

**31.5(1)** The supervised clinical experience shall:

*a.* Be a minimum of two years or the equivalent of full-time, postgraduate supervised professional work experience in marital and family therapy.

*b.* Be completed following completion of the practicum, internship, and all graduate coursework, with the exception of the thesis.

*c.* Include successful completion of at least 3,000 hours of marital and family therapy that shall include at least 1,500 hours of direct client contact and 200 hours of clinical supervision. Applicants who entered a program of study prior to July 1, 2010, shall include successful completion of 200 hours of clinical supervision concurrent with 1,000 hours of marital and family therapy conducted in person with couples, families and individuals.

*d.* Include a minimum of 25 percent of all clinical supervision in person. Up to 75 percent of all supervision may be completed by electronic means with no more than 50 percent completed by telephone. Supervision by electronic means is acceptable if:

(1) The first two meetings are face-to-face and in person; and

(2) The system utilized is a confidential interactive, secure, real-time system that provides for visual and audio interaction between the licensee and the supervisor.

*e.* Include in the 200 hours of clinical supervision at least 100 hours of individual supervision.

*f.* Follow and maintain a plan throughout the supervisory period established by the supervisor and the licensee. Such a plan must be kept by the licensee for a period of five years following receipt of the permanent license and must be submitted to the board upon request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address, telephone number, and e-mail address (when available) of the supervisor;

(2) The name, license number, address, telephone number, and e-mail address (when available) of supervisee;

(3) Employment setting in which experience will occur;

(4) The nature, duration and frequency of supervision;

(5) The number of hours of supervision per month;

(6) The supervisor/licensees type (individual/group) and mode (face-to-face/electronic) of supervision;

(7) The methodology for secure transmission of case information;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (8) The beginning date of supervised professional practice and estimated date of completion;
  - (9) The goals and objectives for the supervised professional practice; and
  - (10) The signatures of the supervisor and licensee, and the dates of signatures.
- g. Have only supervised clinical contact credited for this requirement.

ITEM 3. Rescind subrule 31.7(1) and adopt the following new subrule in lieu thereof:

**31.7(1)** The supervised clinical experience shall:

a. Be a minimum of two years or the equivalent of full-time, postgraduate supervised professional work experience in mental health counseling.

b. Be completed following completion of the practicum, internship, and all graduate coursework, with the exception of the thesis.

c. Include successful completion of at least 3,000 hours of mental health counseling that shall include at least 1,500 hours of direct client contact and 200 hours of clinical supervision. Applicants who entered a program of study prior to July 1, 2010, shall include successful completion of 200 hours of clinical supervision concurrent with 1,000 hours of mental health counseling conducted in person with couples, families and individuals.

d. Include a minimum of 25 percent of all clinical supervision in person. Up to 75 percent of all supervision may be completed by electronic means with no more than 50 percent completed by telephone. Supervision by electronic means is acceptable if:

(1) The first two meetings are face-to-face and in person; and

(2) The system utilized is a confidential interactive, secure, real-time system that provides for visual and audio interaction between the licensee and the supervisor.

e. Include in the 200 hours of clinical supervision at least 100 hours of individual supervision.

f. Follow and maintain a plan throughout the supervisory period established by the supervisor and the licensee. Such a plan must be kept by the licensee for a period of five years following receipt of the permanent license and must be submitted to the board upon request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address, telephone number, and e-mail address (when available) of the supervisor;

(2) The name, license number, address, telephone number, and e-mail address (when available) of supervisee;

(3) Employment setting in which experience will occur;

(4) The nature, duration and frequency of supervision;

(5) The number of hours of supervision per month;

(6) The supervisor/licensees type (individual/group) and mode (face-to-face/electronic) of supervision;

(7) The methodology for secure transmission of case information;

(8) The beginning date of supervised professional practice and estimated date of completion;

(9) The goals and objectives for the supervised professional practice; and

(10) The signatures of the supervisor and licensee, and the dates of signatures.

g. Have only supervised clinical contact credited for this requirement.

ITEM 4. Amend subparagraph **31.7(2)“b”(3)** as follows:

(3) May be an alternate supervisor who possesses qualifications equivalent to a licensed mental health counselor with at least three years of postlicensure clinical experience, including mental health professionals licensed pursuant to Iowa Code chapter 147 to practice independently; and

ITEM 5. Rescind numbered paragraph “7” in rule **645—31.8(154D)**.

ITEM 6. Amend subparagraph **31.16(3)“a”(2)** as follows:

(2) Verification of completion of 40 hours of continuing education obtained within the two years of immediately preceding the application for reactivation.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 7. Amend subparagraph **31.16(3)“b”(2)** as follows:

(2) Verification of completion of 80 hours of continuing education obtained within the two years of immediately preceding the application for reactivation.

ITEM 8. Amend subrule 33.2(12) as follows:

**33.2(12)** Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**ARC 0680C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry hereby gives Notice of Intended Action to amend Chapter 180, “Licensure of Optometrists,” Chapter 181, “Continuing Education for Optometrists,” and Chapter 182, “Practice of Optometrists,” Iowa Administrative Code.

The proposed amendments would update requirements for optometry licensure to be consistent with Iowa Code chapters 147 and 154 and remove outdated language.

Any interested person may make written comments on the proposed amendments no later than April 23, 2013, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail [judith.manning@idph.iowa.gov](mailto:judith.manning@idph.iowa.gov).

A public hearing will be held on April 23, 2013, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Proposed rules are subject to waiver as defined in 645—Chapter 18.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 147.34, 147.49, 154.1, 154.3, 154.10 and 272C.2.

The following amendments are proposed.

ITEM 1. Rescind the definitions of “Diagnostically certified optometrist,” “DPA” and “Reciprocal license” in rule **645—180.1(154)**.

ITEM 2. Amend rule **645—180.1(154)**, definition of “Therapeutically certified optometrist,” as follows:

“~~Therapeutically certified optometrist~~ *Optometrist*” means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry to use employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of the conditions of the human eye and adnexa, excluding the use of injections other than to counteract an anaphylactic reaction, and notwithstanding Iowa Code section 147.107, may without charge supply any of the above pharmaceuticals to commence a course of therapy, with the exclusions cited in Iowa Code chapter 154.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 3. Rescind and reserve subrule **180.2(2)**.

ITEM 4. Amend rule 645—180.3(154), introductory paragraph, as follows:

**645—180.3(154) Licensure by endorsement.** An applicant who has been a licensed optometrist under laws of another jurisdiction for three years or more shall file an application for licensure by endorsement with the board office. ~~An applicant for licensure to practice optometry in Iowa may only apply to be a therapeutically certified optometrist.~~ The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

ITEM 5. Amend subrule 180.3(3) as follows:

**180.3(3)** Provides an official copy of the transcript sent directly from the school to the board office. The transcript shall show a doctor of optometry degree from an accredited school. In the case of foreign graduates, applicants shall provide evidence of adherence to the current requirements of the NBEO to sit for the NBEO examination;

ITEM 6. Amend subparagraph **181.3(2)“c”(2)**, paragraph **“1,”** as follows:

1. ~~Twenty~~ A combined total of 40 hours required from COPE Category B (Ocular Disease and Management) and 20 hours required from COPE Category C (Related Systemic Disease) with a minimum of 14 hours in each category; and

ITEM 7. Amend rule 645—182.4(155A), introductory paragraph, as follows:

**645—182.4(155A) Prescription drug orders.** Each prescription drug order furnished by a ~~therapeutically certified~~ an optometrist in this state shall meet the following requirements:

**ARC 0681C**

## PROFESSIONAL LICENSURE DIVISION[645]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 152B.6, the Board of Respiratory Care hereby gives Notice of Intended Action to amend Chapter 265, “Practice of Respiratory Care Practitioners,” Iowa Administrative Code.

Proposed rule 645—265.3(152B,272C) states that respiratory therapy modalities with the potential for serious side effects shall be administered with the direct supervision of the respiratory therapist. The proposed rule making also adds a definition of “direct supervision.”

Any interested person may make written comments on the proposed amendment no later than April 24, 2013, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail [tony.alden@idph.iowa.gov](mailto:tony.alden@idph.iowa.gov).

A public hearing will be held on April 24, 2013, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 152B.6.

The following amendment is proposed.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Adopt the following **new** rule 645—265.3(152B,272C):

**645—265.3(152B,272C) Concurrent or unsupervised therapy.**

**265.3(1)** The administration of medications delivered to the respiratory tract and other respiratory therapy modalities with the potential for serious side effects shall not be administered concurrently or without the direct supervision of the respiratory therapist caring for a single patient for the duration of the treatment.

**265.3(2)** “Direct supervision” means that the respiratory therapist must be present where the procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.

**ARC 0672C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 139A.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 1, “Reportable Diseases, Poisonings and Conditions, and Quarantine and Isolation,” Iowa Administrative Code.

The proposed amendment provides an exemption for health care providers and hospitals from reporting communicable and infectious disease laboratory results if the health care provider or hospital ensures that the laboratory performing the analysis provides a report containing the required information to the Department. Health care providers and hospitals that do not perform their own laboratory tests which yield reportable disease results will benefit from this amendment in that the providers and hospitals will not need to incur significant costs associated with electronic laboratory reporting (ELR) to the Department for the purpose of sending a duplicate report that the Department has already received. Also, Meaningful Use requirements call for eligible hospitals and critical access hospitals to accomplish information system-to-system communication. There is no consideration of one important reporting facet of hospital business practice: whether or not a hospital actually performs the laboratory test or sends it out to another laboratory facility. If a hospital performs the laboratory work, the hospital should comply with the Meaningful Use objective and report laboratory results. However, if the hospital does not perform the work and the performing laboratory reports results back to both the facility, which the laboratory would do naturally, and to the Department, which the laboratory should do to comply with existing legal requirements, then the additional effort and cost of implementing ELR from the requesting (but not performing) hospital so that it is capable of reporting a duplicate result to the Department provides zero benefit.

Any interested person may make written comments or suggestions on the proposed amendment on or before April 23, 2013. Such written comments should be directed to John Satre, Iowa Disease Surveillance System Coordinator, Center for Acute Disease Epidemiology, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-5698. E-mail may be sent to [john.satre@idph.iowa.gov](mailto:john.satre@idph.iowa.gov).

After analysis and review of this rule making, the impact on jobs is anticipated to be minimal.

This amendment is intended to implement Iowa Code section 139A.3.

The following amendment is proposed.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Amend paragraph **1.4(1)“a”** as follows:

a. Health care providers, hospitals, clinical laboratories, and other health care facilities are required to report cases of reportable communicable and infectious diseases. Health care providers and hospitals are exempted from reporting communicable and infectious disease laboratory results if the health care provider or hospital ensures that the laboratory performing the analysis provides a report containing the required information to the department.

**ARC 0659C**

**REVENUE DEPARTMENT[701]**

**Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives notice that a public hearing will be held on April 26, 2013, from 9 to 10 a.m. in Room 430, Fourth Floor, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views, either orally or in writing, on the proposed amendment to rule 701—71.3(421,428,441), regarding the valuation of agricultural real estate. The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on March 20, 2013, as **ARC 0653C**.

Contrary to the statement in the preamble of Notice **ARC 0653C**, the Department has determined that the proposed amendment may necessitate additional expenditures in the amount of \$5,000 to \$15,000 per county for those counties with digital parcels. For the seven counties without digital parcels, the proposed amendment may necessitate additional expenditures in the amount of up to \$100,000 but possibly a greater amount.

After analysis and review of this rule making, a positive impact on jobs could exist.

**ARC 0658C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 321.34, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 401, “Special Registration Plates,” and Chapter 425, “Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers,” Iowa Administrative Code.

Items 1 and 2 will allow qualified firefighters and members of an emergency medical services agency who are current plate holders of a firefighter plate or an emergency medical services plate the ability to apply for reissuance of the previously assigned plate number during a plate replacement or if the plate is lost, damaged or stolen. Item 3 makes a change to the definition of “principal place of business” to state that the business must be within the state of Iowa. Item 4 will allow a Department representative, not just a Department investigator, to physically inspect an applicant’s principal place of business when the applicant is applying for a motor vehicle dealer’s license if the Department decides that an inspection is required.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

## TRANSPORTATION DEPARTMENT[761](cont'd)

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)817-6511; Internet e-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).

5. Be received by the Office of Policy and Legislative Services no later than April 23, 2013.

A meeting to hear requested oral presentations is scheduled for Thursday, April 25, 2013, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.34, 322.2(15) and 322C.2(8).

Proposed rule-making actions:

ITEM 1. Amend subrule 401.9(4) as follows:

**401.9(4) Plates.** Firefighter plates are limited to five characters. Personalized plates are not available. When a new series of firefighter plates is issued to replace a current series or the plate has been lost, stolen, or damaged, an applicant may obtain replacement plates containing the applicant's previous plate number upon payment of the statutory fee.

ITEM 2. Amend subrule 401.10(3) as follows:

**401.10(3) EMS plates** are limited to five characters. Personalized plates are not available. When a new series of EMS plates is issued to replace a current series or the plate has been lost, stolen, or damaged, an applicant may obtain replacement plates containing the applicant's previous plate number upon payment of the statutory fee.

ITEM 3. Amend rule **761—425.3(322)**, definition of "Principal place of business," as follows:

*"Principal place of business"* means a building actually occupied where the public and the department may contact the owner or operator during regular business hours. In lieu of a building, a travel trailer dealer may use a manufactured or mobile home as an office if taxes are current or a travel trailer as an office if registration fees are current. The principal place of business must be located in this state.

ITEM 4. Amend subrule 425.12(1) as follows:

**425.12(1) Verification of compliance.** Before a motor vehicle dealer's license is issued, ~~an investigator from a representative of the department shall~~ may physically inspect an applicant's principal place of business to verify compliance with this rule.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

April 1, 2012 — April 30, 2012	4.00%
May 1, 2012 — May 31, 2012	4.25%
June 1, 2012 — June 30, 2012	4.00%
July 1, 2012 — July 31, 2012	3.75%
August 1, 2012 — August 31, 2012	3.50%
September 1, 2012 — September 30, 2012	3.50%
October 1, 2012 — October 31, 2012	3.75%

## USURY(cont'd)

November 1, 2012 — November 30, 2012	3.75%
December 1, 2012 — December 31, 2012	3.75%
January 1, 2013 — January 31, 2013	3.75%
February 1, 2013 — February 28, 2013	3.75%
March 1, 2013 — March 31, 2013	4.00%
April 1, 2013 — April 30, 2013	4.00%

## ARC 0674C

## INSPECTIONS AND APPEALS DEPARTMENT[481]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 59, “Tuberculosis (TB) Screening,” Iowa Administrative Code.

The amendment clarifies which health care workers are subject to the tuberculosis screening requirements outlined in 481—Chapter 59, as well as those individuals who are exempt from the screening requirements. The amendment was developed in cooperation with the Iowa Department of Public Health and addresses concerns raised by the Iowa Health Care Association and LeadingAge Iowa regarding TB screening of volunteers who work in health care facilities.

Chapter 59 addresses TB screening for health care workers in hospitals licensed pursuant to Iowa Code chapter 135B and health care facilities licensed pursuant to Iowa Code chapter 135C. One association submitted a comment related to the definition of “health care worker” during the initial rule-making process to adopt Chapter 59. However, after careful consideration of all comments and discussion with the Department of Public Health, it was decided that no changes should be made to the Adopted and Filed rules. After publication of the Adopted and Filed rules, additional groups and individual providers expressed concerns specifically related to volunteers, prompting the need for this rule-making action, which is designed to address those concerns.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable because of the immediate need for the change to implement provisions of Chapter 59, which takes effect March 26, 2013.

The original effective date for Chapter 59 (see **ARC 0484C**, IAB 12/12/12) was delayed 70 days by the Administrative Rules Review Committee in order to give the Department additional time to address the volunteer issue raised by the associations. As a result, the Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendment should be waived and this amendment should be made effective March 26, 2013, as that is the effective date of Chapter 59.

The Board of Health approved the amendment at its March 13, 2013, meeting.

This amendment is also published herein under Notice of Intended Action as **ARC 0675C** to allow further public comment. This emergency filing permits the Department to implement Chapter 59 in a timely manner and avoids unnecessary confusion for health care providers regarding the effective date of the chapter.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 135C.14.

This amendment became effective March 26, 2013.

The following amendment is adopted.

Amend rule **481—59.2(135B,135C)**, definition of “Health care worker,” as follows:

“*Health care worker*” or “*HCW*” means any paid or unpaid person working in a health care facility or hospital, including any ~~volunteer~~ or person who is paid either by the health care facility or hospital, or paid by any other entity (i.e., temporary agency, private duty, Medicaid/Medicare or independent contractors); or any volunteer who volunteers in a health care facility or hospital on a consistent and regularly scheduled basis for five or more hours per week. Specifically excluded from the definition of “health care worker” are individuals such as visitors, building contractors, repair workers or others who are in the facility or hospital for a very limited purpose and are not in the facility or hospital on a regular basis.

[Filed Emergency 3/13/13, effective 3/26/13]

[Published 4/3/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/13.

**ARC 0665C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

Revisions to Chapters 79 and 83 are due to the change in the reimbursement rates for providers of home- and community-based service (HCBS) waivers that were increased beginning January 1, 2013, by 2 percent over the rates in effect on June 30, 2012. The caps on the total monthly costs of HCBS waiver services for members under each waiver were also increased by 2 percent, with the exception of the elderly waiver nursing facility level of care, which was increased by 16 percent (from \$1,117 to \$1,300) in July 2012. The increase in the cap was put in place so members can receive the same services after the rate increase.

These changes have been made to come into compliance with 2012 Iowa Acts, Senate File 2336, section 33 (amending 2011 Iowa Acts, chapter 129, section 141, subsection 1, paragraph “q”), which requires the Department of Human Services to increase the rates for providers of HCBS waivers by 2 percent over the rates in effect June 30, 2012.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0547C** on January 9, 2013. These amendments were also Adopted and Filed Emergency and published as **ARC 0548C** on the same date and became effective January 1, 2013. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on March 13, 2013.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective June 1, 2013, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 79, 83] is being omitted. These amendments are identical to those published under Notice as **ARC 0547C** and Adopted and Filed Emergency as **ARC 0548C**, IAB 1/9/13.

[Filed 3/13/13, effective 6/1/13]

[Published 4/3/13]

[For replacement pages for IAC, see IAC Supplement 4/3/13.]

**ARC 0666C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 237A.12(1)“b,” the Department of Human Services amends Chapter 110, “Child Development Homes,” Iowa Administrative Code.

The purpose of this amendment is to eliminate the restriction prohibiting the use of a cellular telephone as a primary telephone in registered child development homes. With the advancement in cellular telephone technology, it is no longer necessary to limit cellular telephone use in child development homes. None of the states surrounding Iowa include this limitation in their rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0554C** on January 9, 2013. The Department received no comments. This amendment is identical to the one published under Notice of Intended Action.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Council on Human Services adopted this amendment on March 13, 2013.

This amendment does not provide for waivers in specified situations because waivers are not necessary. Providers are not required to switch to cellular telephone service; they simply may do so if they desire. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 237A.12(1)“b.”

This amendment will become effective June 1, 2013.

The following amendment is adopted.

Amend paragraph **110.5(1)“a”** as follows:

*a.* The home shall have a non-pay, working telephone with emergency numbers posted for police, fire, ambulance, and the poison information center. ~~A cell phone shall not be used as the primary phone.~~ If the working telephone is a mobile telephone, these numbers must be programmed and saved into the telephone. The number for each child's parent, for a responsible person who can be reached when the parent cannot, and for the child's physician shall be readily accessible by the telephone. If the working telephone is a mobile telephone, these numbers must also be programmed and saved into the telephone.

[Filed 3/13/13, effective 6/1/13]

[Published 4/3/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/13.

**ARC 0663C**

## **INSPECTIONS AND APPEALS DEPARTMENT[481]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(3) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 57, “Residential Care Facilities,” Chapter 58, “Nursing Facilities,” Chapter 62, “Residential Care Facilities for Persons with Mental Illness (RCF/PMI),” Chapter 63, “Residential Care Facilities for the Mentally Retarded,” and Chapter 65, “Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI),” Iowa Administrative Code.

The adopted amendments make technical changes to correspond to the adoption of 481—Chapter 59, “Tuberculosis (TB) Screening.” Chapter 59 outlines requirements and procedures to conduct tuberculosis screenings for health care workers and residents of Iowa-licensed health care facilities, including the screening process to be used, the risk classifications, and who may conduct TB screenings.

The Department does not believe that the adopted amendments impose any financial hardship on any regulated entity, body, or individual. Rather, the adopted amendments provide uniformity in the requirements and procedures to conduct TB screenings for health care workers and residents.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2012, as **ARC 0513C**. No comments were received, and the adopted amendments are identical to those published under Notice of Intended Action.

The Board of Health reviewed the amendments at its November 14, 2012, meeting, and subsequently approved them at the Board's March 13, 2013, meeting.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135C.14.

These amendments will become effective May 8, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 57.11(3) as follows:

**57.11(3)** There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

*a.* Employees shall have a physical examination ~~and tuberculin test~~ before employment. (I, II, III)

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

*b.* Employees shall have a physical examination at least every four years, ~~including an assessment of tuberculosis status.~~ (I, II, III)

*c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

ITEM 2. Amend subrule 57.15(2) as follows:

**57.15(2)** Each resident admitted to a residential care facility shall have had a physical examination prior to admission. ~~If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record.~~ (II, III)

*a.* ~~Each resident admitted to a residential care facility shall have had a physical examination prior to admission.~~ If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (II, III)

*b.* The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, ~~tuberculosis status,~~ physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedures. (II, III)

*c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

ITEM 3. Amend subrule 58.10(3) as follows:

**58.10(3)** There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

*a.* Employees shall have a physical examination ~~and tuberculin test~~ before employment; (I, II, III)

*b.* Employees shall have a physical examination at least every four years, ~~including an assessment of tuberculosis status.~~ (I, II, III)

*c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

ITEM 4. Amend subrule 62.9(2), introductory paragraph, as follows:

**62.9(2)** The facility shall require regular health examinations for all personnel, and examinations shall be required at the commencement of employment and thereafter at least every four years. The examination shall include, at a minimum, the health ~~and tuberculosis status~~ of the employee. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (III)

ITEM 5. Amend subrule 62.11(1) as follows:

**62.11(1)** Each resident admitted shall have had a physical examination prior to admission and annually thereafter. (II, III)

*a.* If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be part of the record in lieu of an additional physical examination. (II, III)

*b.* The record of the admission physical examination shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, ~~tuberculosis status,~~ physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedure. (II, III)

*c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

ITEM 6. Amend subrule 63.9(3) as follows:

**63.9(3)** There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

*a.* Employees shall have a physical examination ~~and tuberculin test~~ before employment. (I, II, III)

*b.* Employees shall have a physical examination at least every four years, ~~including an assessment of tuberculosis status.~~ (I, II, III)

*c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 7. Amend subrule 63.15(2) as follows:

**63.15(2)** Each resident admitted to a residential care facility for the mentally retarded shall have had a physical examination prior to admission. ~~If the resident is admitted directly from another health care facility, a copy of the admission physical and discharge summary may be part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be part of the resident's record.~~ (II, III)

*a.* ~~Each resident admitted to a residential care facility shall have had a physical examination prior to admission.~~ If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (II, III)

*b.* The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, ~~tuberculosis status~~, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedures. (II, III)

*c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

ITEM 8. Amend subrule 65.9(2) as follows:

**65.9(2)** There shall be written personnel policies for each facility. ~~which~~ Personnel policies shall include the following requirements:

*a.* ~~Employees shall have a physical examination and tuberculin test before employment. At and at least every four years after beginning employment, employees shall have a physical examination and assessment of tuberculin status.~~ (III)

*b.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

~~*b. c.*~~ No one shall provide services in a facility if the person has a disease:

- (1) Which is transmissible through required workplace contact; (I, II, III)
- (2) Which presents a significant risk of infecting others; (I, II, III)
- (3) Which presents a substantial possibility of harming others; (I, II, III)
- (4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to ~~Guidelines~~ Guideline for Infection Control in Hospital Personnel, 1998, Centers for Disease Control, U.S. Department of Health and Human Services, ~~PB85-923402~~ to determine (1), (2), (3) and (4).

~~*e. d.*~~ There shall be written policies for emergency medical care for employees in case of sudden illness or accident. These policies shall include the administrative individuals to be contacted. (III)

~~*e. e.*~~ Health certificates for all employees shall be available for review by the department. (III)

[Filed 3/13/13, effective 5/8/13]

[Published 4/3/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/13.

**ARC 0662C**

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 5, "Employees," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 12, "Calculation of Monthly Retirement Benefits," Chapter 13, "Disability for Regular and Special Service Members," Chapter 15, "Dividends," and Chapter 16, "Domestic Relations Orders and Other Assignments," Iowa Administrative Code.

These amendments implement new contribution rates for regular and special service members beginning July 1, 2013; clarify when IPERS coverage ends for employees who are employed in two

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

IPERS covered positions at the same time; correct a date in a subrule regarding bona fide retirement of licensed health care professionals as amended in 2012 Iowa Acts, House File 2465, section 21; implement prior legislative changes in 2010 Iowa Acts, House File 2518, section 19, clarifying the IPERS benefit calculation for members vested by age and not service, and for members aged 70 and older receiving an in-service benefit; correct an error in terminology in a subrule regarding fast-track review of a disability application; clarify the time frame in which to review disability applicant files; establish rules for payments to members and beneficiaries of the favorable experience dividend (FED) account balance when the account balance is not sufficiently funded; and update several rules regarding IPERS' administration of domestic relations orders.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 6, 2013, as **ARC 0598C**. A public hearing was held on February 26, 2013, at 9 a.m. in Conference Room G at IPERS, 7401 Register Drive, Des Moines. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

These amendments will become effective May 8, 2013.

The following amendments are adopted.

ITEM 1. Amend paragraph **4.6(1)“b”** as follows:

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2012	Effective July 1, 2013
Combined rate	14.45%	14.88%
Employer	8.67%	8.93%
Employee	5.78%	5.95%

ITEM 2. Amend subrule 4.6(2) as follows:

**4.6(2)** Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2008	Effective July 1, 2009	Effective July 1, 2010	Effective July 1, 2011	Effective July 1, 2012	Effective July 1, 2013
Combined rate	15.04%	15.24%	17.88%	19.66%	19.80%	19.76%
Employer	7.52%	7.62%	8.94%	9.83%	9.90%	9.88%
Employee	7.52%	7.62%	8.94%	9.83%	9.90%	9.88%

ITEM 3. Amend subrule 4.6(3) as follows:

**4.6(3)** Contribution rates for protection ~~occupation~~ occupations are as follows.

	Effective July 1, 2008	Effective July 1, 2009	Effective July 1, 2010	Effective July 1, 2011	Effective July 1, 2012	Effective July 1, 2013
Combined rate	14.08%	15.34%	16.59%	16.62%	17.11%	16.90%
Employer	8.45%	9.20%	9.95%	9.97%	10.27%	10.14%
Employee	5.63%	6.14%	6.64%	6.65%	6.84%	6.76%

ITEM 4. Amend subrule 5.2(33) as follows:

**5.2(33)** ~~School employees~~ Employees who work in additional positions with additional duties, along with normal duties with the same employer, shall be considered covered employees until all of their

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

compensated duties to their employer cease. (Examples include teacher/coach; teacher/summer driver's education instructor; and Phase I, II, and III employment city employee/paid firefighter.)

ITEM 5. Amend subrule 11.5(2), introductory paragraph, as follows:

**11.5(2) *Bona fide retirement—licensed health care professionals.*** For retirees whose first month of entitlement is no earlier than July 2004 and no later than June ~~2012~~ 2014, a retiree who is reemployed as a "licensed health care professional" by a "public hospital" does not have a bona fide retirement until all employment with covered employers is terminated for at least one calendar month. In order to receive retirement benefits, the member must file a completed application for benefits form before returning to any employment with a covered employer.

ITEM 6. Amend subrule 12.5(1) as follows:

**12.5(1)** For each member who is vested prior to July 1, 2012, ~~but~~ and is retiring prior to July 1, 2012, with less than four complete years of service, a monthly annuity shall be determined by applying the total reserve as of the effective retirement date (plus any retirement dividends standing to the member's credit on December 31, 1966) to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). If the member's retirement occurs before January 1, 1995, IPERS' revised 6.5 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.

ITEM 7. Amend subrule 12.5(7) as follows:

**12.5(7)** For members ~~who first become vested~~ retiring after June 30, 2012, the money purchase benefit calculated pursuant to this rule shall be provided to members who are not vested by service as defined in Iowa Code section 97B.1A(25) "*d.*"

ITEM 8. Amend rule 495—12.6(97B) as follows:

**495—12.6(97B) Recalculation for a member aged 70.** A member remaining in covered employment after attaining the age of 70 years may receive a retirement allowance without terminating the covered employment. A member who is in covered employment, attains the age of 70 and begins receiving a retirement allowance must terminate all covered employment before the member's retirement allowance can be recalculated to take into account service after the member's original FME. The termination of employment must be a true severance lasting at least 30 days. The formula to be used in recalculating such a member's retirement allowance depends on the date of the member's FME and the member's termination date, as follows:

If the member is receiving a retirement allowance with an FME prior to July 1, 2000, and terminates covered employment on or after January 1, 2000, the member's retirement formula for recalculation purposes shall be the formula in effect at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation.

In all other cases, the recalculation for a member aged 70 who retires while actively employed shall use the retirement formula in effect at the time of the member's FME.

Payments under this rule shall begin no earlier than the month following the month of termination, upon IPERS' receipt of a member's application for recalculation.

A member receiving a recalculation under this rule after June 30, 2012, will have the member's average covered wage calculated as follows. IPERS will calculate the average high three covered wage as of June 30, 2012. IPERS will next calculate the average high five covered wage at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation. IPERS will determine the benefit amount based on the calculation that produces the greatest benefit to the member.

ITEM 9. Amend subrule 13.2(6) as follows:

**13.2(6) *Fast-track review.*** IPERS' disability retirement benefits officer may refer any case to IPERS' chief benefits officer (CBO) for fast-track review. The ~~CEO~~ CBO or the ~~CEO's~~ CBO's designee may, based upon a review of the member's application and medical records, determine that the medical board be permitted to make its recommendations based solely upon a review of the application and medical

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

records, without requiring the member to submit to additional medical examinations by, or coordinated through, the medical board.

ITEM 10. Amend subrule 13.2(7) as follows:

**13.2(7) *Initial administrative determination.*** The medical board's letter of recommendation, test results, and supporting notes, and the member's file shall be forwarded to IPERS. Except as otherwise requested by IPERS, the medical board shall forward hospital discharge summary reports rather than the entire set of hospital records. The complete file shall be reviewed by the system's disability retirement benefits officer, who shall, in consultation with the system's legal counsel, make the initial disability determination. Written notification of the initial disability determination shall be sent to the member and the member's employer within 14 business days after a complete file has been returned to IPERS for the initial disability determination.

ITEM 11. Adopt the following new subrules 15.2(6) and 15.2(7):

**15.2(6) *Determination of sufficiency of FED reserve account.*** The system is charged in Iowa Code section 97B.49F(2)"d" with determining whether the reserve account is sufficiently funded to make a distribution. The system shall make this determination in the following manner.

a. The system shall declare the value of the FED reserve account balance as specified in the Allocation of Net Assets Held in Trust in the financial statements for the fiscal year that ended immediately preceding a January FED payment. The value shall include, but is not limited to, investment income and expenses and certain noninvestment income that are properly recorded for the FED reserve balance based on standard accounting rules used to determine a final balance at the conclusion of a fiscal year.

b. The above-declared reserve account balance shall be compared to the total estimated FED payment for the following January as calculated pursuant to rule 495—15.2(97B) utilizing a 1 percent multiplier.

c. The reserve account shall be declared not sufficiently funded when the estimated FED payment as determined in paragraph "b" of this subrule is equal to or greater than the declared reserve account balance as defined in paragraph "a" of this subrule.

**15.2(7) *Determination of FED distribution if reserve account is not sufficiently funded.***

a. When the system has determined pursuant to subrule 15.2(6) that the reserve account is not sufficiently funded, the system shall declare a multiplier to be used in the formula pursuant to rule 495—15.2(97B) that is best estimated to approximate a full distribution of the declared reserve account balance as of the preceding June 30 fiscal year end.

b. No investment gains or losses shall change this balance between July 1 and the FED payment in January of the fiscal year in which the remaining balance of the reserve account will be paid by IPERS.

c. Any remaining reserve account balance shall be credited among the membership groups in the net assets held in trust, and the reserve account balance will be zero at the end of the fiscal year in which a FED payment is made pursuant to this subrule.

d. Any funds the system collects from a FED payment to a member or beneficiary because of an erroneous FED payment made by IPERS shall be deposited in the IPERS trust fund.

e. Payments under this subrule will represent a final distribution of the balance of the reserve account as determined in rule 495—15.2(97B) effectively halting any future FED payment, unless and until the reserve account is funded again pursuant to subrule 15.2(1).

f. No claim or administrative appeal will be allowed under this subrule if made more than 30 calendar days following the date on which IPERS made a FED payment to a member or beneficiary based upon the date of the EFT or the date IPERS mailed a state warrant to the member or beneficiary.

g. No payment will occur after January 31 in the year of the FED payment under this subrule for any adjustment to any previous fiscal years' FED payment to a member or beneficiary.

ITEM 12. Amend paragraph **16.2(3)"a"** as follows:

a. IPERS uses the shared payment method for payments under a domestic relations order. IPERS will not create a separate account for the alternate payee. Payment to the alternate payee shall be in a lump sum if the member's benefits are paid in a lump sum distribution or as monthly payments if the

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

member's benefits are paid under a retirement option. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee.

ITEM 13. Amend paragraph **16.2(3)“c”** as follows:

c. If a QDRO or an ADRO directs the member to name the alternate payee under the order as a designated beneficiary, and the member fails to do so, the provisions of the QDRO or ADRO awarding the alternate payee a share of the member's death benefit shall be deemed, except as revoked or modified in a subsequent QDRO or ADRO, to operate as a beneficiary designation, and shall be given first priority by IPERS in the determination and payment of such member's death benefits. Death benefits remaining after payments required by the QDRO or ADRO, to the extent possible, shall then be made according to the terms of the member's most recent beneficiary designation. If a QDRO or an ADRO does not require the member to select an option, the member is allowed to select any option at retirement.

ITEM 14. Amend paragraph **16.2(3)“g”** as follows:

g. A person who attempts to make IPERS a party or requires IPERS to appear as a witness to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

ITEM 15. Amend paragraph **16.2(3)“k”** as follows:

k. If a QDRO or an ADRO requires the member to select an option with joint and survivor provisions (Option 4 or 6) and name the alternate payee as contingent annuitant, ~~acceptable the order~~ must state the percentage in Option 4 or 6 to be payable to the alternate payee as contingent annuitant (the currently available percentages under Option 4 or 6 are 25, 50, 75 and 100 percent). Acceptable birth proof for the alternate payee as the named contingent annuitant, pursuant to 495—subrule 11.1(2), shall must also be provided to IPERS prior to approval of the order being approved by IPERS.

[Filed 3/13/13, effective 5/8/13]

[Published 4/3/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/13.

**ARC 0664C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 136A.8, the Department of Public Health hereby amends Chapter 4, “Center for Congenital and Inherited Disorders,” Iowa Administrative Code.

The amendments describe the responsibilities of the state genetics coordinator; add a heading for the Congenital and Inherited Disorders Advisory Committee and incorporate the Committee's current bylaws into the rules; update definitions; update acronyms; rename the Neonatal Metabolic Screening Program to reflect the broader scope of testing available; increase the newborn screening fee due to a recently approved addition to the newborn screening panel; and eliminate the requirement that a sliding fee scale be used for the billing of services provided through the Regional Genetics Consultation Services and the Neuromuscular and Related Diseases clinics. Finally, the amendments seek to clarify services provided through congenital and inherited disorders programs.

These amendments have been reviewed by the Congenital and Inherited Disorders Advisory Committee and interested individuals within the field.

Notice of Intended Action was published in the January 23, 2013, Iowa Administrative Bulletin as **ARC 0572C**. Comments were received from four individuals, one of them representing the American

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Heart Association. All of the commenters are interested in requiring pulse oximetry screening on all newborns. This would be an addition to the newborn screening and is not part of the current amendments. No changes were made based on the comments received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on March 13, 2013.

After analysis and review of this rule making, the impact on jobs is anticipated to be minimal.

These amendments are intended to implement Iowa Code chapter 136A.

These amendments will become effective on May 8, 2013.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [4.1 to 4.5, 4.7, 4.11 to 4.14] is being omitted. These amendments are identical to those published under Notice as **ARC 0572C**, IAB 1/23/13.

[Filed 3/13/13, effective 5/8/13]

[Published 4/3/13]

[For replacement pages for IAC, see IAC Supplement 4/3/13.]

**ARC 0661C****TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation, on March 13, 2013, adopted amendments to Chapter 4, "Public Records and Fair Information Practices," Chapter 600, "General Information," and Chapter 605, "License Issuance," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the January 23, 2013, Iowa Administrative Bulletin as **ARC 0571C**.

This rule making was initiated in response to requests from the Iowa Nurse Practitioner Society, which provided information to the Department indicating that persons accessing health care through advanced registered nurse practitioners (ARNPs) could not obtain from them medical reports relevant to fitness to drive determinations because existing rule language limits the definition of "medical report" to reports prepared by physicians and optometrists. The purpose of this rule making is to give Iowa citizens faced with a fitness determination a greater range of access to qualified medical professionals who may evaluate and assist them.

These amendments promote conformity with Iowa Code section 321.186(4), which allows ARNPs and physician assistants (PAs) to submit confidential reports to the Department on drivers they deem to be incapable. These amendments also give a person identified as an incapable driver better access to health care professionals who can assist in determining or reassessing the person's fitness to drive by expanding the list of professionals who may submit medical reports relevant to a fitness to drive determination to include ARNPs and PAs when practicing within the scope of their professional license.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 321.186.

These amendments will become effective May 8, 2013.

Rule-making actions:

ITEM 1. Amend subrule 4.9(25) as follows:

**4.9(25)** A report received by the department from a ~~physician or optometrist~~ physician licensed under Iowa Code chapter 148, an advanced registered nurse practitioner licensed under Iowa Code chapter 152

TRANSPORTATION DEPARTMENT[761](cont'd)

and registered with the board of nursing, a physician assistant licensed under Iowa Code chapter 148C or an optometrist licensed under Iowa Code chapter 154 regarding a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. (Iowa Code section 321.186)

ITEM 2. Amend rule ~~761—600.1(321)~~, definitions of “Medical report” and “Physician,” as follows:

“*Medical report*” means a report from a ~~physician~~ qualified medical professional attesting to a person’s physical or mental capability to operate a motor vehicle safely. The report should be submitted on Form 430031, “Medical Report.” In lieu of Form 430031, a report signed by a ~~physician~~ qualified medical professional on the ~~physician’s~~ qualified medical professional’s letterhead may be accepted if it contains all the information specified on Form 430031.

“*Physician Qualified medical professional*” means a person licensed ~~to practice medicine and surgery or osteopathic medicine and surgery~~ as a physician under Iowa Code chapter 148, a person licensed as an advanced registered nurse practitioner under Iowa Code chapter 152 and registered with the board of nursing, or a person licensed as a physician assistant under Iowa Code chapter 148C, when practicing within the scope of the person’s professional licensure.

ITEM 3. Amend paragraph ~~600.4(4)“c”~~ as follows:

c. If an episode occurs when medications are withdrawn by a ~~physician~~ qualified medical professional, but the person is episode-free when placed back on medications, the department may license without a six-month episode-free period with a favorable recommendation from a neurologist.

ITEM 4. Amend paragraph ~~600.4(4)“d”~~ as follows:

d. If a medical report indicates the person experienced a single nonrecurring episode, the cause has been identified, and the ~~physician~~ qualified medical professional is not treating the person for the episode and believes it is unlikely to recur, the department may license without the six-month episode-free period with a favorable recommendation from a ~~physician~~ qualified medical professional.

ITEM 5. Amend paragraph ~~605.5(5)“b”~~ as follows:

b. *Loss of consciousness or voluntary control.*

(1) and (2) No change.

(3) If the latest medical report indicates the person experienced only a single nonrecurring episode, the cause has been identified, and the ~~physician~~ qualified medical professional is not treating or has not treated the person for the episode and believes it is unlikely to recur, the department may waive the medical report requirement upon receipt of a favorable recommendation from a ~~physician~~ qualified medical professional.

(4) The department may remove the medical report requirement and issue a full-term driver’s license if recommended by a ~~physician~~ qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control and has not been prescribed medications to control such episodes during the 24-month period immediately preceding application for a license.

(5) The department may remove the medical report requirement and issue a full-term driver’s license if recommended by a ~~physician~~ qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control during the 10-year period immediately preceding application for a license.

[Filed 3/13/13, effective 5/8/13]

[Published 4/3/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/13.

**ARC 0660C****TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12, 321.449 and 321.450, the Iowa Department of Transportation, on March 13, 2013, adopted amendments to Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the February 6, 2013, Iowa Administrative Bulletin as **ARC 0591C**.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year.

To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The amendments to the FMCSR and the HMR that have become final and effective since the 2011 edition of the CFR are listed below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMRPart 391 (FR Vol. 76, No. 220, Pages 70661-70663, 11-15-11)

The Federal Motor Carrier Safety Administration (FMCSA) amends its regulations to keep in effect until January 30, 2014, the requirement that interstate drivers subject to the commercial driver's license (CDL) regulations and the federal physical qualification requirements must retain paper copies of the drivers' medical examiner's certificates. Interstate motor carriers are also required to retain copies of the drivers' medical certificates in the drivers' qualification files. This action is being taken to ensure the medical qualification of CDL holders until all states are able to post the medical self-certification and medical examiner's certificate data on the Commercial Driver's License Information System (CDLIS) driver record. This rule does not, however, extend the compliance dates for states to collect and to post to the CDLIS driver record data from a CDL holder's medical self-certification and medical examiner's certificate. Effective Date: December 15, 2011.

Parts 177, 390, 391 and 392 (FR Vol. 76, No. 232, Pages 75470-75488, 12-2-11)

The FMCSA and Pipeline Hazardous Materials Safety Administration (PHMSA) are amending the FMCSRs and the HMRs to restrict the use of hand-held mobile telephones by drivers of commercial motor vehicles (CMVs). This rule making will improve safety on the nation's highways by reducing the prevalence of distracted driving-related crashes, fatalities, and injuries involving drivers of CMVs. The FMCSA and PHMSA also amend regulations to implement new driver disqualification sanctions for drivers of CMVs who fail to comply with this federal restriction and new driver disqualification sanctions for commercial driver's license (CDL) holders who have multiple convictions for violating a state or local law or ordinance on motor vehicle traffic control that restricts the use of hand-held mobile

TRANSPORTATION DEPARTMENT[761](cont'd)

telephones. Additionally, motor carriers are prohibited from requiring or allowing drivers of CMVs to use hand-held mobile telephones. Effective Date: January 3, 2012.

Parts 385, 390 and 395 (FR Vol. 76, No. 248, Pages 81133-81188, 12-27-11)

The FMCSA revises the hours of service regulations to limit the use of the 34-hour restart provision to once every 168 hours and to require that anyone using the 34-hour restart provision have as part of the restart two periods that include 1 a.m. to 5 a.m. The rule also includes a provision that allows truckers to drive if the driver had a break of at least 30 minutes, at a time of the driver's choosing, sometime within the previous 8 hours. This rule does not include a change to the daily driving limit because the FMCSA is unable to definitively demonstrate that a 10-hour limit—which it favored in the notice of proposed rule making—would have higher net benefits than an 11-hour limit. The current 11-hour limit is therefore unchanged at this time. The 60- and 70-hour limits are also unchanged. The purpose of the rule is to limit the ability of drivers to work the maximum number of hours currently allowed, or close to the maximum, on a continuing basis to reduce the possibility of driver fatigue. Long daily and weekly hours are associated with an increased risk of crashes and with the chronic health conditions associated with lack of sleep. These changes will affect only the small minority of drivers who regularly work the longer hours. Effective Date: February 27, 2012.

Parts 172 and 173 (FR Vol. 76, No. 249, Pages 81396-81400, 12-28-11)

On July 20, 2011, the PHMSA published a final rule under Docket Number PHMSA-2009-0151 (HM-218F) making miscellaneous amendments to HMR; 49 CFR Parts 171-180. The amendments made by PHMSA in the July 20, 2011, final rule promote safer transportation practices; eliminate unnecessary regulatory requirements; finalize outstanding petitions for rule making; facilitate international commerce; and simplify the regulations. This final rule corrects errors in the pictorial display of labels, eliminates references to transitional provisions that were previously removed from the HMR, clarifies shipping paper amendments, corrects an editorial error, and extends the effective date of certain shipping paper amendments adopted in the July 20, 2011, final rule. Effective Date: December 28, 2011.

Part 390 (FR Vol. 76, No. 251, Pages 82179-82180, 12-30-11)

The FMCSA is correcting a final rule that appeared in the FR on December 2, 2011 (76 FR 75470), which restricted the use of hand-held mobile telephones by drivers of CMVs. That rule was jointly issued by FMCSA and PHMSA, but this correction only affects an FMCSA regulation. Effective Date: January 3, 2012.

Parts 172 and 173 (FR Vol. 76, No. 251, Pages 82163-82179, 12-30-11)

This PHMSA document responds to administrative appeals, provides clarifications, and corrects typographical and other minor errors adopted in an international harmonization final rule published January 19, 2011 (HM-215K; 76 FR 3308). The final rule amended the HMRs by revising, removing or adding proper shipping names, the hazard class of a material, packing group assignments, special provisions, packaging authorizations, packaging sections, air transport quantity limitations, and vessel stowage requirements. The amendments were necessary to align the HMR with recent revisions to international standards for the transport of hazardous materials by all modes. Effective Date: January 1, 2012.

Part 391 (FR Vol. 77, No. 8, Pages 1889-1891, 01-12-12)

The FMCSA amends its December 3, 2011, final rule that restricted the use of hand-held mobile telephones by drivers of CMVs. That rule was jointly issued by FMCSA and PHMSA, but this technical amendment only affects an FMCSA regulation. The purpose of this rule is to correct a clerical error. Effective Date: January 12, 2012.

Part 391 (FR Vol. 77, No. 19, Pages 4479-4491, 01-30-12)

## TRANSPORTATION DEPARTMENT[761](cont'd)

The FMCSA amends the physical qualifications for drivers and the instructions for the medical examination report to clarify that drivers may not use Schedule I drugs and be qualified to drive CMVs under any circumstances. The rule harmonizes FMCSA's provisions regarding pre-employment and return-to-duty test refusals with corresponding U.S. Department of Transportation-wide provisions. The rule also corrects inaccurate uses of the term "actual knowledge." Effective Date: February 29, 2012.

Part 395 (FR Vol. 77, No. 29, Page 7544, 02-13-12)

The FMCSA corrects the hours of service final rule published on December 27, 2011 (76 FR 81143). This notice corrects the amendatory language or guidance to legal editors of the CFR on the proper codification of the December 27, 2011, rule. This notice does not change, in any manner, the regulatory text. Effective Date: February 27, 2012.

Part 391 (FR Vol. 77, No. 35, Pages 10391-10400, 02-22-12)

The FMCSA is correcting a final rule that appeared in the FR on January 30, 2012 (77 FR 4479), which amended the physical qualifications for drivers and the instructions for the medical examination report to clarify that drivers may not use Schedule I drugs and be qualified to drive CMVs under any circumstances. Effective Date: February 22, 2012.

Parts 390 and 391 (FR Vol. 77, No. 77, Pages 24103-24135, 04-20-12)

The FMCSA establishes a National Registry of Certified Medical Examiners (National Registry) with requirements that all medical examiners who conduct physical examinations for interstate CMV drivers meet the following criteria: complete certain training concerning FMCSA's physical qualification standards, pass a test to verify an understanding of those standards, and maintain and demonstrate competence through periodic training and testing. Following establishment of the National Registry and a transition period, FMCSA will require that motor carriers and drivers use only those medical examiners on the FMCSA's National Registry and will only accept as valid medical examiner's certificates issued by medical examiners listed on the National Registry. FMCSA is developing the National Registry program to improve highway safety and driver health by requiring that medical examiners be trained and certified so they can determine effectively whether a CMV driver's medical fitness for duty meets FMCSA's standards. Effective Date: May 21, 2012. Compliance required: May 21, 2014.

Part 385 (FR Vol. 77, No. 89, Pages 26989-26990, 05-08-12)

The FMCSA published a final rule in the FR on Monday, May 9, 2011, that became effective on July 8, 2011. That final rule amended the CDL knowledge and skills testing standards and established new minimum federal standards for states to issue the commercial learner's permit. Since the final rule was published, FMCSA identified minor discrepancies regarding section references in existing regulatory text resulting from the final rule. This document corrects those section references. Effective Date: May 8, 2012.

Parts 385, 395 and 396 (FR Vol. 77, No. 93, Pages 28447-28451, 05-14-12)

This FMCSA final rule rescinds the final rule published on April 5, 2010, entitled "Electronic On-Board Recorders for Hours-of-Service Compliance" and amended by a September 13, 2010, technical amendment. This action responds to a decision of the Court of Appeals for the Seventh Circuit that vacated the April 2010 final rule. Effective Date: May 14, 2012.

Parts 385 and 395 (FR Vol. 77, No. 93, Pages 28451-28454, 05-14-12)

This FMCSA final rule repromulgates in the CFR a statutory requirement that FMCSA revoke the operating authority registration of a for-hire motor carrier for failure to comply with safety fitness requirements. If the FMCSA determines that a motor carrier is "unfit" based on its safety fitness determination procedures, the FMCSA must revoke the carrier's operating authority registration. Unfit motor carriers are prohibited from operating in interstate commerce, and the Secretary of Transportation is required by statute to revoke the motor carrier's operating authority registration. This final rule

TRANSPORTATION DEPARTMENT[761](cont'd)

also repromulgates several technical provisions and makes nonsubstantive administrative changes. These changes, initially adopted as part of the April 5, 2010, final rule entitled “Electronic On-Board Recorders for Hours-of-Service Compliance,” are necessary because, for reasons unrelated to this final rule, the United States Court of Appeals for the Seventh Circuit invalidated the previous rule. Effective Date: May 14, 2012.

Parts 390 and 396 (FR Vol. 77, No. 113, Pages 34846-34853, 06-12-12)

The FMCSA eliminates the requirement for drivers operating intermodal equipment to submit and intermodal equipment providers to retain driver-vehicle inspection reports when the driver has neither found nor been made aware of any defects in the intermodal equipment. This rule responds to a joint petition for rule making from the Ocean Carrier Equipment Management Association and the Institute of International Container Lessors. Effective Date: June 12, 2012.

Parts 171, 172, 173 and 180 (FR Vol. 77, No. 122, Pages 37961-37992, 06-25-12)

The PHMSA is amending the HMRs to incorporate provisions contained in certain widely used or longstanding rail special permits that have general applicability and established safety records. Special permits allow a company or an individual to package or ship a hazardous material in a manner that varies from the regulations, provided an equivalent level of safety is maintained. Incorporating the special permits discussed in this rule making will provide users of the regulations with wider access to the regulatory flexibility offered in these special permits, eliminate the need for numerous renewal requests, reduce paperwork burdens, and facilitate commerce while maintaining an appropriate level of safety. This rule making also responds to two petitions for rule making concerning the use of electronic shipping papers and the removal of the Association of American Railroad’s AAR-600 portable tank program for previously adopted standards that meet or exceed the AAR-600 requirements. Effective Date: July 25, 2012.

Part 393 (FR Vol. 77, No. 151, Pages 46633-46640, 08-06-12)

The FMCSA amends the requirements regarding brake readjustment limits in the FMCSRs. This rule amends the readjustment limits, clarifies the application, and corrects an error in cross-referencing a federal motor vehicle safety standard. This rule responds to a petition for rule making from the Commercial Vehicle Safety Alliance. Effective Date: September 5, 2012.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation’s highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.449 and 321.450.

These amendments will become effective May 8, 2013.

Rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

*a. Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2011~~ 2012).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

*b. Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2011~~ 2012).

[Filed 3/13/13, effective 5/8/13]

[Published 4/3/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/13.